



Immigrant Council  
of Ireland



# LIVING IN LIMBO:

MIGRANTS'  
EXPERIENCES  
OF APPLYING FOR  
NATURALISATION  
IN IRELAND

*The Immigrant Council of Ireland  
in collaboration with Nasc, The Irish Immigrant  
Support Centre*



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## FOREWORD

Ireland's rapid demographic change in the 1990s and in the first decade of the new millennium brought many benefits to this country and a number of real challenges. Immigration is now a permanent and positive reality for Ireland. The make-up of our society has changed forever – and for the better. While we were never the homogenous society that has, for many, become the accepted vision of Ireland before we became a country of net immigration, we are now a culturally, socially and ethnically richer society.

We continue to reap the benefits of this change. However, how we respond to the challenges will have a fundamental impact on our society in the future. There remains some resistance to accepting the fundamental fact that Ireland has changed forever. Until we overcome that resistance, we cannot take the necessary action to ensure we achieve a just and socially cohesive Ireland for the next generation.

We betray our lack of acceptance of the diverse reality of Ireland today in our rhetoric and in our lack of action in so many areas relating to immigration and integration. Once we truly accept that Ireland will continue to be a diverse society in a generation's time, it becomes immediately apparent that we need to take stock of our current approach to immigration and integration laws and policies. We need to ask if they are fit for purpose or, in fact, counterproductive. Ireland's approach to granting citizenship by naturalisation provides a valuable insight.

This report details the process of becoming an Irish citizen, compares the process here with those in other countries and details the experiences of migrants who have applied to become Irish citizens. For those who are unaware of how Ireland treats migrants applying to become citizens, those experiences may sometimes appear inexplicable. While other countries encourage migrants to become citizens in order to share those countries' values, Ireland could be seen to be using the process and its injustices as a way to prevent people becoming citizens. As University College Cork academic Siobhán Mullally said in her article *'Asking the Question 'Who Belongs?':* "Citizenship laws provide us with models of membership. They define the terms upon which strangers and natives belong to political communities, allocating both the benefits of membership and the brutalities of exclusion."

The views expressed by some of the migrants who took part in this research, after having applied for Irish citizenship and having their applications rejected, illustrate very starkly the brutalities of that exclusion. A review of our citizenship laws and the way they are applied is needed.

The reality today is, for most people who settled here during the boom, Ireland is now home. The number of people applying for citizenship by naturalisation is increasing as more people meet the eligibility criteria in terms of the length of time they have lived here. However, the rate of granting citizenship is

exceptionally low, our rate of refusing applications is exceptionally high and the amount of time taken to make a decision about those applications is truly extraordinary. The reasons for rejecting an application, if a reason is given at all, can often be completely disproportionate. All of this creates frustration, hurt and disillusionment amongst migrants.

What do we hope to achieve by refusing people citizenship on the basis that a person has incurred penalty points on their driver's licence? What will it mean for Ireland in a generation's time? What does it mean for the people refused?

Rejection of a citizenship application is unlikely to mean that the person concerned has to leave the country. They will usually be well established and will continue to be able to legally live here. However, what the rejection of their application is saying is that the person is not fully recognised as a member of our community. The rejected applicant will not have a right to vote in national elections. They might have children who have been educated in Ireland but who will be unable to progress to third-level education because, even if they performed outstandingly at school, they would be faced with prohibitive fees as an "international student". In this situation, the children of unsuccessful applicants also pay a penalty and are denied the opportunity to reach their full potential.

How does Ireland benefit from this approach? How much do we risk paying for this approach in terms of social cohesion in the future? In these times when monetary costs feature so prominently in Government decision-making, wouldn't it make economic sense to have a more administratively efficient system?

We must now make a decision about what type of society we want the next generation to enjoy. As a result of such a restrictive approach to who has the right to be considered Irish, will we have created a permanently segregated class of people who feel resentful and frustrated by their treatment – and with some justification? Our approach to granting citizenship risks creating a distinct class of people living with us but whom we will not allow to fully participate in society. Furthermore, we could be creating the circumstances where this degree of separation reaches into the next generation. What a heavy price to pay for incurring penalty points on a driver's licence!

It is my hope that, by reforming our approach to granting citizenship now – of making it fairer and less restrictive – the next generation will reap the benefits. This will require a significant change to current attitudes. I hope this research will help all of us to see the value of actively encouraging migrants who have made this country home to become citizens of Ireland. In addition to accepting the permanently changed nature of Irish society, attitude change will require leadership and education. That leadership is required now more than ever.

Sr Stanislaus Kennedy  
Founder and board member  
Immigrant Council of Ireland

## MESSAGE FROM NASC

Nasc, The Irish Immigrant Support Centre, greatly welcomes this opportunity to work in collaboration with the Immigrant Council of Ireland (ICI) on this paper. Like the ICI, Nasc has experienced a huge increase in the number of queries relating to citizenship and long-term residence coming through our legal information service.

The process and criteria for citizenship/naturalisation is a major issue of concern for our migrant communities. There is currently no clear pathway to attain citizenship in Ireland and the granting of naturalisation is at the discretion of the Minister for Justice, Equality and Defence. The process is opaque, marked by delay and applications are often refused for minor or trivial reasons.

The rights accorded to migrants in the state are stratified, as migrants' rights are directly related to and flow from his/her residency permission. This leads to unequal access and has a direct impact upon our migrant community's sense of belonging and their ability and/or willingness to participate fully in Irish society.

As citizenship is currently the only means for migrants to attain real security of residence and gain access to a full bundle of rights, we believe that this publication is both critical and timely. This research documents the real experiences of migrants navigating this system and highlights the objective need for a fair and transparent naturalisation process. We believe that it will make a valuable and informed contribution to a long-overdue debate for comprehensive reform in the area.

Fiona Finn  
CEO

Nasc, The Irish Immigrant Support Centre



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The members of the ICI advisory committee provided overall direction for this paper and comments on early drafts. They brought wide-ranging diversity of views and experience to the research and the ICI is grateful to them all for their commitment of time, knowledge and valuable insights.

Erinne Duddy, former legal intern, assisted greatly in undertaking international comparative research. Gillian Kennedy, Education and Training Officer, ICI, and Brian Killoran, Information and Referral Service Coordinator, ICI, delivered the regional outreach sessions. Gillian also contributed significantly to the drafting of chapter three. Ruth Evans, Media and Communications Manager with the ICI, assisted greatly with the editing of the report. However, all of the staff, interns and volunteers of the ICI played a central role from the outset in shaping the objectives of the research project and in formulating the key recommendations of the paper. Thank you to them all, especially to ICI founder and board member Sr Stanislaus Kennedy and Denise Charlton, ICI's Chief Executive Officer, for their hard work and commitment to the organisation.

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This publication reflects the views of the ICI only.

Catherine Cosgrave  
Senior Solicitor  
April 2011



# INTRODUCTION

*Background and Context:  
The Changed Nature of Irish Society*

*Rationale for Undertaking Research*

*Scope and Focus*

*Research Methodology:  
Approach to the Study  
Profile of Participants  
Ethical Considerations*



## INTRODUCTION

### ***Background and Context: The Changed Nature of Irish Society***

In the past two decades, Ireland has experienced significant inward migration, which has resulted in profound economic, social and demographic changes. Traditionally perceived as one of the most homogeneous countries in the European Union (EU), Ireland now has a diverse population base. The 2006 Census figures reveal that approximately 10 per cent of the population is now foreign born<sup>1</sup>. Citizens from all over the world now live in every town and city of Ireland.

In a deeply uncertain economic climate and very unstable labour market, migrant workers are most at risk of losing their jobs<sup>2</sup>. In addition to workplace instability, migrant workers experience deep insecurity regarding their residence entitlements. Currently, the majority of non-EEA<sup>3</sup> migrants living and working in Ireland only have temporary residence status and have limited rights within the Irish immigration and employment permits system. Even after five years or longer of lawful residence in Ireland, migrants face the threat of deportation if their job is terminated and their residence permit is not renewed.

However, notwithstanding the current domestic economic circumstances and evidence of emigration from Ireland in the past two years<sup>4</sup>, there is also evidence that Ireland has retained a large migrant population<sup>5</sup>, many of whom, along with their children, are now indelibly part of Irish society. Careers and businesses have been developed; families and friendships have been established in local communities. Their children may have been born in Ireland or are Irish citizens; they attend Irish schools and universities, and participate in school and local sports teams. For these migrants, there is a deep sense of connection and belonging here: Ireland is now their home and country.

Migrants who see their future in a country have an interest in living there permanently as full members of the national community. Similarly, countries of immigration have an interest in securing full socio-economic and political inclusion through the recognition of full citizenship for its settled residents<sup>6</sup>.

<sup>1</sup> Census 2006 – Principal Demographic Results, Central Statistics Office

<sup>2</sup> Barrett, A. and Kelly, E., *The Impact of Ireland's Recession on the Labour Market Outcomes of its Immigrants*, (ESRI, 2010)

<sup>3</sup> Non-EEA migrants refers to migrants who are not citizens of Switzerland or of the European Economic Area (EEA), which comprises citizens of the EU as well as citizens of Iceland, Norway and Liechtenstein. EEA nationals enjoy rights of free movement and permanent residence within the EU under Directive 2004/38/EC. Switzerland has a separate bilateral agreement with the EU on free movement in the EU

<sup>4</sup> Population and Migration Estimates (CSO, 2010). See also Dumont, F., *The Crisis & Its Impact on Migrant Employment and Movements*, (OECD, 2010)

<sup>5</sup> Population and Migration Estimates (CSO, 2010)

<sup>6</sup> Niessen, J., et al, *From Principles to Practice: Common Basic Principles on Integration and Handbook Conclusions – updated* (MPG, 2010)

## ***Rationale for Undertaking Research***

### ***Key Issues Arising in ICI Services: Insecurity of Status and Barriers to Naturalisation***

Since its establishment 10 years ago, the ICI has sought to document and further explore the issues presented by users of the ICI's information and legal services. The ICI responds to approximately 10,000 queries from individuals, organisations and legal practitioners every year.

Traditionally, the queries received by the ICI predominantly concerned family reunification or issues related to respect for family life.<sup>7</sup> However, whilst family reunification remains a consistent priority and in the top 10 queries, in 2009, for the first time, the top four queries received by the ICI related to security of immigration status and 'permanency', by way of access to long-term residence and/or citizenship. These accounted for approximately 40 per cent of total queries received in 2009 and 2010. Queries in relation to employment permits in these years reflected migrant workers' concerns, in a very uncertain labour market, about whether their employment permit and/or residence permit would be renewed if they were made redundant.

<b>Breakdown of Queries Received by ICI in 2009</b>	
<b>Nature of Query</b>	<b>Total Number Received</b>
Employment Permits	1,167
Renewal of Status	1,097
Long-Term Residence	1,022
Citizenship	965

<b>Breakdown of Queries Received by ICI in 2010</b>	
<b>Nature of Query</b>	<b>Total Number Received</b>
Renewal of Status	1,219
Citizenship	1,148
Family Reunification (spouse/partner)	527
Employment Permits	521

There is currently no provision in the Irish immigration system for a truly permanent residence status that concretely sets out the rights and entitlements or duties and responsibilities of migrants, their family members or Government departments and other service providers. Access to Irish citizenship by way of naturalisation is also very limited and is granted on an entirely discretionary basis. It can take years for an application for citizenship to be processed and there are very high rates of refusal as compared with other countries. Applications

<sup>7</sup> Cosgrave, C., *Family Matters: Experiences of Family Reunification in Ireland* (ICI, 2006)

are often refused for reasons relating to financial status (for example, accessing State benefits, including employment benefits, disability and carers' allowances, even if only temporarily). On some occasions, applications are refused for no stated reason. There is no right of appeal against a decision not to grant citizenship. Individuals contacting the ICI seek advice on all of these issues, which are explored further in chapter two.

In 2008, the Irish Naturalisation and Immigration Service (INIS) announced that, with effect from July 2008, the fees for processing citizenship applications were to be increased by several hundred euro to a fee of €950 per application, unless some exemption applied. In the following months, the ICI was contacted by several migrants expressing their anger and frustration at this.

Following some preliminary research, the ICI issued a media release highlighting the fees and average processing times for citizenship applications in Ireland compared with other countries. In response, a number of individuals contacted the ICI to highlight their personal situations – namely, they had applied for citizenship and their application was pending for a period significantly longer than the average processing time of, at that time, 22 months. One caller also directed the ICI to an internet forum where migrants were providing details of their current immigration status and beginning to track the progress of their citizenship applications from date of lodgement to date of final outcome.<sup>8</sup> This forum, together with the existing evidence base from the ICI services, highlighted that security of immigration status and access to citizenship was now the priority issue for migrants living in Ireland.

In addition to the issues presenting directly in the ICI services, the decision by the ICI to research the specific issue of citizenship was informed by a number of other important considerations.

### ***Relationship Between Immigration Status, Integration and Potential for Social Exclusion***

Firstly, if citizenship is refused, it does not mean that the applicant is no longer permitted to live in Ireland. The refused applicant and their family members remain living in Ireland but are consigned to indefinitely maintaining a temporary residence status. In addition to the stresses arising from the uncertainties of the immigration system regarding renewal of residence permits, there are further detrimental consequences for migrants and their family members arising from the barriers to naturalisation or permanent residence status, such as the lack of equal access to, for example, employment, housing and education. The ICI, and more recently the media, has consistently highlighted the issues faced by children of migrant workers who have grown up in Ireland but who have been impeded from continuing their education at third level due to their immigration status.<sup>9</sup> This leads to concerns that there is a rising generation of children who are experiencing social exclusion.

<sup>8</sup> Information available at: <http://www.editgrid.com/book/orint?id=2274553>

<sup>9</sup> Feldman, A., et al., *Getting On: From Migration to Integration (ICI, 2008)*. See also, *Immigration and Children and Young People, Briefing Paper, (ICI, 2010)*



Public debates are beginning to emerge in Ireland regarding the relationship between immigration status, integration and citizenship. In 2008, the ICI published research that highlighted the fundamental extent to which immigration status affects people's ability to make longer-term plans, participate in Irish society and, ultimately, their successful integration or marginalisation.<sup>10</sup> The research is in line with other research where analysts increasingly identify legal/immigration status as the key determinant of integration.<sup>11</sup> This is also reflected in the European Common Basic Principles on Integration. Temporary immigration status creates a variety of restrictions on decision-making, self-sufficiency and the capacity of migrants to benefit from basic economic, political, social and cultural opportunities and services. In contrast, citizenship confers not only voting rights but also the right to enjoy equal access to government benefits and protections. Whilst the granting of permanent residence and/or citizenship may not result in integration, it is recognised that security of status and access to citizenship are essential pre-conditions to achieving integration.

### ***Opportunities for Reform***

For the past decade, the Irish Government has been examining the legislative and policy framework governing immigration and residence in Ireland, including long-term residence. Although the draft Immigration, Residence and Protection Bills published in 2007, 2008 and 2010 did not contain provisions in relation to Irish citizenship or naturalisation, the Government has signalled that a review of current citizenship and naturalisation provisions will be undertaken by the Office of the Minister for Integration.<sup>12</sup> Furthermore, the newly published programme for Government<sup>13</sup> signals an undertaking to provide for the efficient processing and determination of citizenship applications within a reasonable time. The Law Reform Commission (LRC) has also indicated that it will undertake a review of citizenship procedures during the Third Programme for Law Reform. The review will focus on the extent to which Ireland's citizenship procedures are consistent with international law and best practice.<sup>14</sup>

In anticipation of these reviews, the ICI believes it is necessary and worthwhile to document the experience of migrants navigating the Irish immigration system and to demonstrate the impact of the current legislative provisions and administrative procedures on them. Notwithstanding the contraction of the Irish economy, it is accepted that Ireland has a significant established migrant population and will continue to experience, albeit significantly reduced, inward migration. Therefore, the issue of residence status and access to citizenship clearly needs to be addressed to ensure that the best interests of all members of Irish society are served.

<sup>10</sup> Feldman, A., et al., *Getting On: From Migration to Integration* (ICI, 2008)

<sup>11</sup> Ibid at pp.18-19. See also: Huddleston T., et al, Migrant Integration Policy Index III (British Council and Migration Policy Group, 2010) available at: [www.mipex.eu](http://www.mipex.eu)

<sup>12</sup> Minister for Justice, Equality and Law Reform, Mr Dermot Ahern, TD, Dáil questions, Wednesday, 25 February 2009

<sup>13</sup> *Towards Recovery: Programme for a National Government 2011-2016*

<sup>14</sup> Report: *Third Programme of Law Reform 2008-2014* (LRC 86-2007)

## ***Scope and Focus***

This study outlines the current legislative and administrative regime governing the application for and granting (or refusal) of long-term residence or citizenship to non-EEA citizens and their families living in Ireland. The primary focus of the study is on non-EEA citizen adults but it also considers some issues arising for migrant children.

On the basis of questionnaires and in-depth interviews, the research documents, by way of case studies, the experiences of migrants applying for citizenship in Ireland. It also explores the motivations of migrants for applying, the issues arising during the naturalisation process and the impact of a decision to refuse or grant citizenship.

Although relevant legislation is outlined and some recent case law is referred to, this study does not provide a comprehensive overview or in-depth legal analysis of Irish nationality and citizenship law.<sup>15</sup>

## ***Research Methodology***

### ***Approach to the Study***

A mixed-methods approach, incorporating elements of both quantitative and qualitative research, was adopted for this study. Several sources of data and information were used:

- Questionnaires were completed by 293 migrants residing in Ireland
- Semi-structured in-depth interviews were conducted with 22 people regarding their immigration history and intentions to apply for citizenship or experience of applying for citizenship. Some interviewees also provided copies of correspondence they had received from INIS
- Individual case files in the ICI's information and legal services were examined
- Data, including analysis of annual trends, were collated from the ICI's Information and Referral Service
- Information provided on the immigration, work visa and work permit internet discussion board Immigrationboards.com was examined and, in particular, the online spreadsheet tracking citizenship applications, which is hosted by EditGrid and is available at [www.editgrid.com/book/orint?id=2274553](http://www.editgrid.com/book/orint?id=2274553)
- Questionnaires were sent to embassies and internet-based research was conducted of government websites on citizenship law and administrative procedures in other jurisdictions

<sup>15</sup> For a recent comprehensive overview of Irish Nationality and Citizenship Law, see: Handoll J., *Country Report: Ireland*, EUDO Citizenship Observatory, (2010). See also: Moriarty, B. and Massa, E. (eds.) Chapter 16, *Law Society of Ireland Human Rights Law* (3rd Ed., 2010, Oxford University Press)

In the period December 2009 to June 2010, the ICI held eight public information outreach sessions at various locations in the greater Dublin area, as well as in Longford, Dundalk, Sligo, Waterford and Ennis. These meetings provided information regarding long-term residence and citizenship applications in Ireland. The ICI used these sessions as an opportunity to highlight the research it was undertaking on citizenship. Those in attendance were invited to complete an anonymous questionnaire to gather information about their residence history in Ireland, as well as their intentions to, motivations for and experience of applying for long-term residence and/or citizenship in Ireland.

The questionnaire contained a quantitative element to gather data, such as nationality, immigration status on arrival in Ireland and currently, length of time living in the country, whether or not the respondent had applied for citizenship and/or long-term residency and if he/she had been granted or refused either. These results are discussed in chapter three, section one.

The qualitative element of the questionnaire focused on individuals' motivations for applying for citizenship, their views on the process and the impact of the process on them. Their opinions about the factors that should be considered by the Irish Government when processing and deciding on applications were also examined. These results are discussed in chapter three, section two.

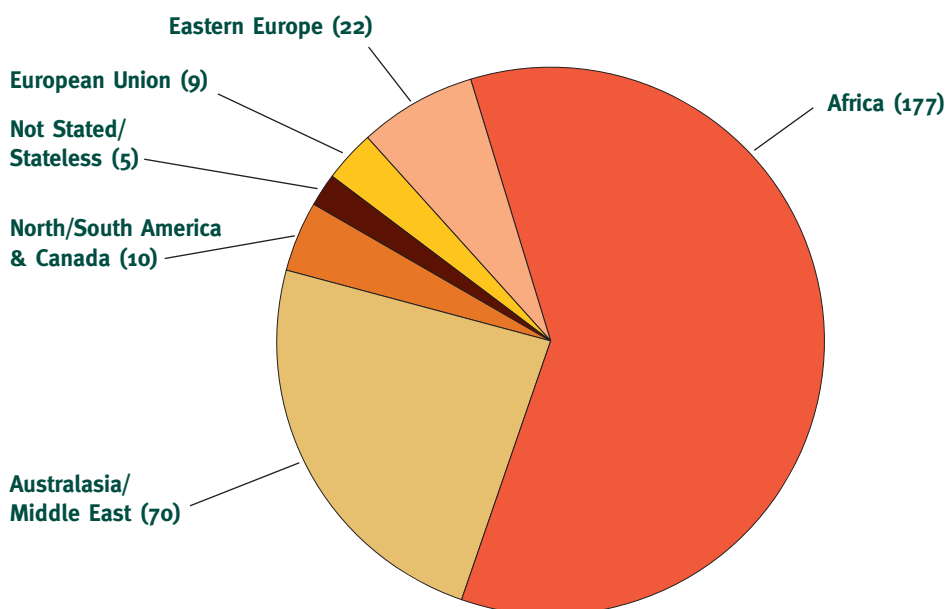
### ***Profile of participants***

More than 300 individuals attended the outreach sessions and 186 individuals completed the questionnaire. A further 107 questionnaires were completed by service users of Nasc, The Irish Immigrant Support Centre, Cork.

A further 22 individuals participated in in-depth interviews, which have been used for compiling the case studies in this report. While eight of the interviewees were previous service users of the ICI, the majority responded to a call for participants advertised through the ICI's News Bulletin, Facebook and word of mouth. The interviews took place during the period July 2010 to February 2011.

To obtain an insight into the broad range of migrant experiences, the ICI interviewed individuals who are intending to apply for citizenship in the near future, individuals who have applied and are awaiting a decision and individuals whose applications have already been determined. The gender breakdown of interviewees was 50:50 male and female. The interviewees originated from 15 countries (Australia, Bulgaria, Cameroon, Canada, Georgia, Hong Kong British Overseas Territory, Iran, Iraq, Malaysia, Morocco, Nigeria, Pakistan, South Africa, the United States and Zimbabwe) and have different immigration backgrounds in terms of immigration/residence status in Ireland.

In total, 315 people participated in the study. They came from a broad range of backgrounds in terms of nationality/country of origin and current immigration status, as can be seen from the tables below and in Appendix A.

**Figure 1: Region of Origin of Questionnaire Respondents****Table 1: Immigration Status of Questionnaire Respondents (293)**

Current Immigration Status in Ireland	Total
Refugee/Stateless	67
Family Member of Irish Citizen (spouse/partner)	46
Humanitarian/Exceptional Leave to Remain	40
Parent of Irish Child/IBC	36
Employment Permit (all categories)	28
Naturalised Irish Citizen	26
Dependent Family Member of Employment Permit Holder	12
Family Member of EU Citizen	10
Temporary Stamp 4 after Five Employment Permits	8
EU Citizen Exercising Free Movement	7
Family Member of Refugee	7
Asylum Seeker	3
Not Stated	3

**Table 2: Immigration Status of Interviewees in Study (22)**

Current Immigration Status in Ireland	Total
Naturalised Irish Citizen*	10
Humanitarian/Exceptional Leave to Remain	3
Family Member of Irish Citizen (spouse/partner)	1
Refugee	1
Employment Permit	2
Parent of Irish Child	3
Long-Term Residence	2

\*Of those interviewed who are naturalised Irish citizens, prior to being granted citizenship, five were employment permit holders and two were refugees. The remaining three were a parent of an Irish child, a family member of an EU citizen and a dependent family member of a work permit holder.

### ***Ethical Considerations***

The purpose of the research was clearly explained to all participants. They all took part in the study on a voluntary basis, having given their consent prior to interview. As some participants were still in the process of applying for citizenship at the time of interview, they were given the assurance of anonymity and confidentiality. Additionally, they all participated knowing that their case studies and quotes would be published and that the publication would be used at a public policy level.

**AN OVERVIEW OF LONG-TERM  
RESIDENCE AND CITIZENSHIP  
APPLICATIONS IN IRELAND AND  
ANALYSIS FROM AN INTERNATIONAL  
COMPARATIVE PERSPECTIVE**





## AN OVERVIEW OF LONG-TERM RESIDENCE AND CITIZENSHIP APPLICATIONS IN IRELAND AND ANALYSIS FROM AN INTERNATIONAL COMPARATIVE PERSPECTIVE

“People must accept that citizenship is not something that can be given out willy-nilly. The giving of citizenship of our country to somebody is a privilege. We must ensure that these people have loyalty and fidelity to, and are not a burden on, the State when they become naturalised. It is only fair. Any examination of systems in other countries, I would hazard a guess, would show the process takes even longer than in Ireland.”

**Minister for Justice, Equality and Law Reform, Mr Dermot Ahern, TD, Dáil Debate, Wednesday, 25 February 2009**

### *Introduction*

At an international level, it is recognised that the enjoyment of permanent residence is a key element in promoting social cohesion. To be a genuine vehicle for integration into society, permanent residents should enjoy equality of economic and social benefits with citizens.<sup>16</sup>

In addition to security of residence status, access to citizenship is also regarded as an essential pre-condition to achieving integration. Moreover, it is increasingly recognised that access to citizenship should be considered within a human rights framework and reflect the principles of respect for the rule of law, dignity, equality and proportionality.<sup>17</sup> This is reflected by the Council of Europe Convention on Nationality 1997.<sup>18</sup>

This chapter sets out the current legislation, administrative policies and procedures that govern the granting of residence permissions and citizenship by naturalisation in Ireland. A comparative international perspective is provided by examining the arrangements that are in place in other key countries of immigration. The main differences in practice are highlighted.

### **1.1. Overview of Residence Permission in Ireland**

In Ireland, a residence permit may be issued in a wide variety of situations, including, for example, refugee/protection or other humanitarian needs, international study, employment or business purposes and to family members of Irish citizens or legally resident migrants.

<sup>16</sup> At a European level, this is reflected in the Preambles of Citizenship Directive 2004/38/EC, which governs freedom of movement of EEA citizens and their family members, and the Long-Term Residents Directive 2005//EC, which governs the rights of non-EEA citizens living legally and continuously in an EU Member State for more than five years. The provisions of these Directives are considered further later in the document

<sup>17</sup> Pilgrim, L., *International Law and European Nationality Laws* (EUDO Citizenship Observatory, 2011). See also, Faist, T., ed., *Chapter 7, Dual Citizenship in Europe: From Nationhood to Societal Integration* (2007, Aldershot: Ashgate)

<sup>18</sup> Ireland is not a signatory to this Convention



Most forms of permission to reside in Ireland are temporary and are generally granted for a period of 12 months to two years at first. Thereafter, they may be renewed for longer periods (to a maximum of five years), revoked or not renewed, depending on the circumstances. The length of stay and the rights and entitlements of residence permit holders vary depending on the reason why a residence permit has been granted.

For example, refugees are usually granted a Stamp 4 residence permit for a period of 12 months. This is usually renewed, indefinitely, for the same period of time. However, some refugees are only granted renewals for periods of three to six months. In all cases, refugees are permitted to work without any restrictions in the Irish labour market. Refugees have a statutory entitlement to family reunification with their spouses, including recognised civil partners<sup>19</sup> and unmarried minor children, who are also entitled to work and study in Ireland.<sup>20</sup>

In contrast, employment permit holders are generally issued a Stamp 1 residence permit for periods of one or two years, depending on the category of employment permit. The residence permit is generally renewed for the same period of time, although the employment permit can be issued for an unlimited period.<sup>21</sup> Employment permit holders are only permitted to work for a stated employer<sup>22</sup> and they have no statutory entitlement to family reunification. Under administrative policies operated by the INIS, employment permit holders may be allowed to have their spouse, partner or children join them in Ireland. However, family members are generally not permitted to work in Ireland.<sup>23</sup>

Although their children may attend primary and secondary school while living in Ireland, they are not automatically entitled to reside in Ireland following completion of their secondary education. Minor children must register with the immigration authorities at the age of 16.<sup>24</sup> If they are the child of a non-EEA migrant worker, they are usually registered as an international student on Stamp 2A conditions. They are not permitted to work unless they obtain a separate employment permit. After secondary school, if they wish to attend third-level education, they do so on the same basis as other international students, regardless of how long they have been living in Ireland with their parent or parents. However, third-level institutions have discretion whether or not to charge international level fees or EU student rates.

Although there is legislation governing some types of immigration-related applications, such as the application for refugee status<sup>25</sup>, employment permits<sup>26</sup>

<sup>19</sup> SI 649 of 2010

<sup>20</sup> Section 18, Refugee Act, 1996 (as amended)

<sup>21</sup> Employment Permits Act, 2006

<sup>22</sup> *Guide to Green Card Permits*, Department of Enterprise, Jobs and Innovation. This policy is contrary to the provisions of section 8, Employment Permit Act, 2006

<sup>23</sup> In very limited circumstances, family members may be permitted to work if they fulfil the administrative requirements of the Spousal/Dependants Permit Scheme operated by the Department of Enterprise, Jobs and Innovation. See: *Guide to Spousal/Dependant Permits*

<sup>24</sup> Section 9(6)(a) Immigration Act 2004

<sup>25</sup> Refugee Act 1996 (as amended)

<sup>26</sup> Employment Permits Acts 2003-2006

and citizenship applications<sup>27</sup>, there is currently no legislation that comprehensively sets out the eligibility criteria for other categories of residence permits, the procedure for applying for the permit or, if granted, how long the permit should be granted for, any entitlements attached, the renewal procedure or the circumstances in which the permit may be revoked. Rather, the relevant legislation, namely the Immigration Acts 1999-2004, confers broad discretionary powers on the Minister for Justice, Equality and Defence<sup>28</sup>, or immigration officers acting on behalf of the Minister, to grant entry permission<sup>29</sup>, to issue residence permission<sup>30</sup>, to vary or amend the conditions of residence<sup>31</sup> and to issue or not issue a deportation order<sup>32</sup>, if required.

However, in accordance with administrative policies and procedures that have been introduced in recent years, it is possible for migrants residing in Ireland to remain long-term or indefinitely in Ireland, if they so wish, if particular conditions are satisfied and subject to the Minister's discretion in favour of an applicant. It is also possible for a migrant to become a citizen of Ireland if particular statutory criteria are fulfilled and, again, subject to the Minister exercising absolute discretion in favour of an applicant.

The following section provides an overview of the relevant legislative and/or administrative provisions and procedures governing the application and granting of long-term residence permissions and citizenship in Ireland, as well as in other jurisdictions.

## **1.2. Long-Term and Permanent Residence: An Overview of Legislative and Administrative Procedures in Ireland and Other Jurisdictions**

### **1.2.1. Ireland: Long-Term Residence**

In stark contrast to the rights of EEA citizens and their family members<sup>33</sup>, there is

<sup>27</sup> Irish Nationality and Citizenship Acts 1956-2004

<sup>28</sup> The current title of the Minister for Justice, Equality and Defence has changed several times in recent years and throughout this report will simply be referred to as the Minister for Justice. The current Department of Justice and Equality has also changed name several times and throughout the report will be referred to as the Department of Justice

<sup>29</sup> Section 4(1), Immigration Act 2004

<sup>30</sup> Section 4(1), Immigration Act 2004

<sup>31</sup> Section 4(7), Immigration Act 2004

<sup>32</sup> Section 3, Immigration Act 1999

<sup>33</sup> EEA citizens and their family members, regardless of nationality, who are exercising freedom of movement, are entitled to apply for a permanent residence permit in accordance with the provisions of Article 16 of Directive 2004/38/EC, which have been transposed into Irish law by the European Communities (Free Movement of Persons) (No.2) Regulations 2006, as amended by the European Communities (Free Movement of Persons) (Amendment) Regulations 2008. Qualifying persons are entitled to permanent residence after five years continuous residence in Ireland. Continuity of residence is not affected by temporary absences not exceeding a total of six months a year or by longer absences due to compulsory military service or by one absence of a maximum of 12 months for important reasons such as pregnancy, child birth, ill health and study. The right of permanent residence is also enjoyed by workers or self-employed persons who, before completion of a continuous five years of residence, are workers or self-employed persons who have reached the legal age in the Member State for entitlement to old age pension (or, if there is no relevant law in the Member State, at least 60) or workers who take early retirement, provided that they have been working in the Member State for at least the preceding 12 months and have resided there continuously for more than three years. There is an obligation to issue qualifying EEA citizens with a document certifying permanent residence as soon as possible (Article 19) and to issue qualifying foreign national family members with a permanent residence card within six months. The permanent residence card is renewable automatically every 10 years (Article 20). Once acquired, the right of permanent residence shall only be lost through absence from the State for a period exceeding two consecutive years (Article 20). Member States may not take an expulsion decision against EU citizens or their family members with permanent residence, except on serious grounds of public policy or public security (Article 28)

no entitlement to permanent residence for non-EEA nationals living in Ireland. In fact, until 2005, there was generally no provision in the Irish immigration system for the granting of anything other than short-term, temporary residence permits to non-EEA nationals, unless they qualified for 'leave to remain without condition as to time'.

In that year, administrative arrangements were introduced that allowed non-EEA nationals to apply for a 'long-term residence' permit if they have legally resided in Ireland on employment permit conditions for a period of five years. This five-year period is calculated as 60 months' registration with the Garda National Immigration Bureau (GNIB).<sup>34</sup> Therefore, any gaps in registration are not included. This has meant that applicants have often had to wait until they have lived in Ireland for six or seven years before they can submit an application for residence.

When applying, there is no specific application form to be completed. Applicants submit a letter outlining their immigration history in Ireland and enclosing relevant supporting documents, including copies of employment permits issued to the applicant, a copy of the applicant's Certificate of Registration and copies of the applicant's passport/passports with all endorsements for the time they have been living in Ireland. Applicants must be of 'good character', although there is no further information or guidelines published by the INIS in this regard.

According to the INIS, it is currently taking six months to process applications for long-term residence. However, much longer processing times are not uncommon and processing has taken up to 24 months in some cases. While waiting for long-term residence to be granted, an applicant is required to keep their immigration status up to date and, in some cases, this has posed considerable difficulties for applicants. This is highlighted by the situation of Michael,<sup>35</sup> a recent ICI service user.

Michael applied for long-term residence in Ireland after he had completed five years' residence on continuous employment permits. While waiting for a decision, Michael changed employer but was not able to obtain a new employment permit for that job. Michael found alternative employment and applied for another work permit.

In the meantime, the Government announced the introduction of a scheme that would allow migrant workers who had completed five years' residence on employment permits to be granted temporary Stamp 4 permits (these are residence permits allowing full access to the labour market). However, Michael was informed that he was ineligible to apply for the Stamp 4 permit under this scheme because, although he had completed five years on work permits, he did not have a valid permit at the time. The-then Department of Enterprise,

<sup>34</sup> It should be noted that there is a currently a lack of clarity regarding the impact of periods of absence from the State on a migrant's residence status. Whilst section 9(2)(e) of the Immigration Act 2004 imposes a statutory obligation on migrants to inform an immigration officer if they are 'absent from their residence for a continuous period exceeding one month', there is a lack of statutory or administrative guidance regarding the length of permitted absences from the State for specific reasons

<sup>35</sup> Michael is a fictional name and is not one of the case studies in chapter two of this paper

Trade and Innovation<sup>36</sup> (DETI) informed Michael that it would not issue him with a work permit as he could register under the new scheme.

Michael sought a direction from the INIS and was referred back to the Department of Enterprise. The INIS would not process his long-term residence application until he could provide an up-to-date residence card, which he could not obtain until he had a new employment permit.

After much correspondence back and forth between the various parties, Michael was issued with a temporary employment permit, for which he was required to pay a fee of €1,000 plus €150 for the renewal of his residence card. He then provided this card to the INIS and, shortly afterwards, was granted long-term residence, for which he had to pay a fee of €500. As he now had a new residence permission, he had to obtain another new residence card, for another €150 fee.

If granted, successful applicants are issued with a Stamp 4 residence permit for a period of five years, which may be renewed directly by the GNIB for a further five years. Since September 2009, there is a €500 fee payable on the initial granting of long-term residence.<sup>37</sup> The granting of a Stamp 4 effectively grants the permit holder free access to the labour market, including permission to be self-employed. However, apart from this benefit and the length of residence permit, there is a lack of clarity regarding the rights and entitlements of a long-term residence permit holder to retain the permit in particular circumstances (for example, subsequent departure from the State for certain periods of time). Furthermore, there is a lack of clarity regarding the conditions for renewal and a total absence of information regarding the grounds upon which a long-term residence permit can be revoked, what the procedure for revocation is or what the procedural safeguards are for permit holders in such circumstances.

It is not until long-term residence has been granted that dependent family members are permitted to make an application for a long-term residence permit. However, if granted, the family member is granted permission to reside for five years but continues to have no permission to work in Ireland, unless granted an employment permit.

The Department of Justice does not publish data in its annual report on the numbers of long-term residence applications applied for or granted or refused annually.

In 2007, following the enactment of the Employment Permits Act 2006, it was announced by the Department of Enterprise that holders of ‘Green Card’ employment permits would be entitled to ‘permanent residence’ after two years’ residence in Ireland.<sup>38</sup> However, in practice, this was not, and is not yet, the case and was extremely misleading to migrant workers applying for ‘Green Card’ permits at that time.

<sup>36</sup> The current Department of Enterprise, Jobs and Innovation has had several recent changes in title and throughout this report will be referred to as the Department of Enterprise

<sup>37</sup> Long-Term Residence (Fees) Regulations S.I. No. 287 of 2009

<sup>38</sup> *Guide to Green Cards*, DETE, 2007

When ‘Green Card’ holders were theoretically first eligible to apply for ‘permanent residence’ in early 2009, there were no administrative arrangements or statutory provisions in place for the granting of this status. Accordingly, INIS hastily introduced administrative arrangements allowing ‘Green Card’ holders to register on Stamp 4 conditions for a period of 12 months. More recently, this has been extended to a period of two years.<sup>39</sup> This temporary Stamp 4 permit is not a long-term residence permit and it is expressly stated that it does not confer the full benefits of that status.<sup>40</sup>

Rather than an entitlement to permanent residence after two years, it would appear that the actual intention was to require ‘Green Card’ holders, and now those who have been issued with temporary Stamp 4 permits after an initial ‘Green Card’, to make a further application for long-term residence, which would only be granted if the applicant satisfied statutory criteria that were intended to be introduced but never actually were.

### **1.2.2. Ireland: Without Condition as to Time**

In addition to the administrative arrangements governing long-term residence outlined above, it is also possible for non-EEA nationals to apply for permission to reside Without Condition as to Time (WCATT). There is little public information available about this form of residence permission. The information that is available is extremely confusing and internally inconsistent.<sup>41</sup>

This a residence stamp that is granted at the discretion of the Minister for Justice to individuals who have completed eight years of legal residence in Ireland, which is calculated as 96 months of GNIB endorsements in passports, and if they are of ‘good character’. Certain categories of residence permit holders are not eligible to apply, including international students. Although not explicitly ineligible to apply, refugees are effectively excluded as the WCATT stamp is issued in passports only and not travel documents, which are issued to refugees and stateless persons. Although the ICI is aware of Stamp 4 residence permit holders who have been granted WCATT, it is nonetheless stated by the INIS that the status is not available to individuals who already have a Stamp 4 or a long-term residence permit. Currently, the INIS states that applications take approximately eight weeks to process and, if granted, no fee is payable. The administrative arrangements do not provide for any right of review against a decision to refuse WCATT.

In very stark contrast to the rights of EEA citizens and their family members entitled to permanent residence, apart from the benefit of being granted an indefinite status, WCATT holders derive few, if any, further rights and do not enjoy any enhanced protections against expulsion. There is no information available

<sup>39</sup> *Renewal of Green Card Permit – Revised Immigration Arrangements*, INIS, August 2010, available at: [http://www.inis.gov.ie/en/INIS/Pages/Renewal\\_of\\_Green\\_Card\\_Work\\_Permit](http://www.inis.gov.ie/en/INIS/Pages/Renewal_of_Green_Card_Work_Permit)

<sup>40</sup> *Guide to Green Card Permits*, Department of Enterprise, Jobs and Innovation

<sup>41</sup> *Without Condition As to Time Endorsements*, INIS, November 2010 available at [http://www.inis.gov.ie/en/INIS/Pages/Without\\_Condition\\_As\\_To\\_Time\\_Endorsements](http://www.inis.gov.ie/en/INIS/Pages/Without_Condition_As_To_Time_Endorsements)

regarding the grounds on which it can be revoked, what the procedure for revocation is or what the procedural safeguards are for permit holders in these circumstances. These are not just academic considerations, as demonstrated by the experience of one ICI service user.

John<sup>42</sup> came to Ireland with his family in the 1970s when he was five years of age. When John was 13 years old, all members of his family were granted permission to remain without condition as to time. When John's passport was subsequently renewed in the late 1980s, this permission was again stamped into the new passport.

In 1996, after more than 20 years' residence in Ireland, John's WCATT residence stamp was cancelled in his passport without any reason and he was informed by an immigration officer that he would need to apply for a work permit. John contacted the Department of Justice about the matter. After almost a year of correspondence, he was granted temporary permission to remain for 12 months without the need for a work permit (Stamp 4). John has renewed this stamp annually for the past number of years.

To date, only a few ICI service users have expressed an interest in applying for a WCATT permit. Usually, those interested in applying are not eligible to apply for long-term residence as, although they may have permission to work in Ireland, they have not been resident specifically for employment purposes. In some cases, they have already applied for citizenship and, before it is granted, wish to obtain a longer-term residence status. In a few cases, individuals have expressed interest in applying as they would like to obtain as secure a residence status as possible but do not wish to apply for citizenship, as their country of origin does not permit dual nationality.

### **1.2.3. Long-Term/Permanent Residence in Other Countries**

Although entry to many countries may initially be granted for temporary periods, it is accepted practice internationally, including in EU countries, to provide migrants with a right to permanent residence after they have resided lawfully in the country for a certain period of time. Permanent residence is usually provided for in several different ways, depending on whether immigration is for economic, family or humanitarian reasons.

This is the case, for example, in Australia<sup>43</sup> and New Zealand<sup>44</sup> under different migration or humanitarian programmes. In some cases, for example, Canada<sup>45</sup> and the United States<sup>46</sup>, it is also possible to apply for permanent residence at the very outset of the immigration process to the country. Although such permanent residence applications tend to focus on an applicant's ability to work and settle

<sup>42</sup> John is a fictional name and is not one of the case studies in chapter two of this paper

<sup>43</sup> Information available on Department of Immigration and Citizenship website: <http://www.immi.gov.au/>

<sup>44</sup> Information available on Department of Labor, Immigration New Zealand Service website: <http://www.immigration.govt.nz/>

<sup>45</sup> Information available on Citizenship and Immigration Canada website: <http://www.cic.gc.ca/english/index.asp>

<sup>46</sup> Information available on the US Department of Homeland Security, Citizenship and Immigration Services website: <http://www.uscis.gov/portal/site/uscis/>

in the country after arrival, intending migrants are provided with a very clear understanding of what is required of them during the application process, how long the process is likely to take, what their rights and entitlements are after arrival in the country, including future eligibility to citizenship, and the circumstances in which permanent residence may be lost.

However, as Ireland is a member of the EU and has also tended to have regard to the immigration laws and policies in the United Kingdom (UK), the following section outlines in more detail the practices governing the granting of permanent residence in those jurisdictions.

#### **1.2.4. The European Union**

In 2005, the EU introduced a European long-term resident status for non-EEA nationals who have resided legally and continuously within the territory of one of the Member States.<sup>47</sup> Ireland, like the UK, decided not to opt-in to this Directive and, along with Denmark, which does not participate in EU immigration measures, is not bound by its provisions. However, unlike Ireland, both the UK and Denmark provide for the granting of permanent residence under the relevant domestic immigration rules.

In all of the other EU Member States, the Directive provides that an individual is entitled to a permanent status after five years' legal residence. Absences from the Member State of residence for periods of less than six consecutive months (and not exceeding 10 months in total within the five-year period) or for specific reasons provided for by national law (including, for example, military service, secondment for work purposes, serious illness, maternity, research or studies) are not regarded as interrupting the period of residence. To be granted long-term resident status, applicants must prove that they have stable resources sufficient to live without recourse to the social assistance system of the Member State concerned and sickness insurance for themselves and any family dependents. Member States may require an applicant to comply with further integration conditions, such as sufficient knowledge of a national language of the Member State concerned, and may refuse to grant long-term resident status on grounds of public policy or public security. However, the provisions of the Directive do not prevent Member States from issuing permanent residence permits on terms that are more favourable than those set out in the Directive but, in such a case, the long-term residence status does not provide a right of residence in other Member States.

Decisions on applications must be taken within six months. Applicants are entitled to receive a decision in writing and, in the case of a refusal, the reasons and the redress procedures available must be stated. Long-term resident status may only be withdrawn on certain grounds, which are set out in the Directive, including absence from the territory for more than 12 consecutive months and fraudulent acquisition of the status.

<sup>47</sup> Directive 2003/109/EC



If granted, long-term residents enjoy equal treatment with nationals regarding access to employment, education, welfare and social benefits, and social assistance. Long-term residents also enjoy enhanced protection against expulsion. The conduct on which expulsion decisions are based must constitute an actual and sufficiently serious threat to public policy or public security and decisions may not be based on economic considerations. Additionally, the Member States undertake to consider specific factors before taking a decision to expel a long-term resident, including the age of the person concerned and the duration of residence in the country.

#### **1.2.5. Permanent Residence in the UK<sup>48</sup>**

After living in the UK for a certain period of time, usually between two and five years depending on immigration category, a non-EU citizen can apply for settlement, also known as indefinite leave to remain. This is not restricted to migrant workers or business persons and is available to family members of British citizens and permanent residents, including minor children and victims of domestic violence, refugees and others granted humanitarian protection. It also extends to individuals who have resided irregularly for a period of 14 years.

Most applicants are required to demonstrate ‘knowledge of life and language in the UK’, although these requirements are exempted in some cases, including, for example, refugees, victims of domestic violence, disability and retired persons of individual means. Such requirements do need to be fulfilled if subsequently applying for British citizenship, unless exempted.

The UK Border Agency, which is responsible for determining settlement actions, states that, in accordance with its service standards, it aims to process 95 per cent of postal applications within six months and 90 per cent of applications made in person by way of appointment at a public service office within 24 hours. There are fees payable for applying for settlement, which vary depending on whether the applicant is an adult or a child, and premium rates are payable for in-person applications. The fees range from £200 to £1,250.

Once granted, in accordance with law, the Secretary of State has power to revoke permanent status in cases where the status was obtained by deception and/or the person is liable to deportation, for example, following criminal offences, but cannot be deported for legal reasons.

It should be noted that the provisions for granting permanent residence in the UK are regarded as the most stringent across all EU Member States. In light of the costly language and integration tests in the absence of free courses and study materials, together with the tenuous status granted, if actually accepted, the status is not considered all that conducive for achieving integration.<sup>49</sup>

<sup>48</sup> Information available on the UK Border Agency website: <http://www.ukba.homeoffice.gov.uk/settlement/>

<sup>49</sup> Huddleston, T., et al, *Migrant Integration Policy Index III* at pp.20-21



### 1.2.6. Existing Proposals for Reform of Long-Term Residence in Ireland

For the past decade, the Irish Government has been reviewing immigration law and policy in Ireland. As far back as 2005<sup>50</sup>, it published proposals for comprehensive reform, including proposals for the introduction of a long-term residence status.<sup>51</sup> The introduction of the temporary Stamp 4 for ‘Green Card’ holders was intended to be a stop-gap measure, pending the enactment of the Immigration, Residence and Protection Bill 2008, and later replaced by the 2010 Bill, which both contained draft provisions for the granting of a statutory long-term residence permit.<sup>52</sup> The draft legislation remains pending at committee stage.

The draft 2008 legislation, if enacted, would have placed the current discretionary administrative scheme on a statutory footing. However, in addition to the existing administrative residence and ‘good character’ criteria, it also provided that migrants would have to fulfil further criteria, including competence in English language and the rather vague requirement to have “made reasonable efforts to integrate into Irish society”. If an applicant fulfilled these eligibility criteria, the Minister would still have had discretion whether or not to grant the application. Although successful applicants would be broadly entitled to the same rights of travel, work, medical care and social welfare services as Irish citizens, the permit would still fall far short of the wider EU standard. Rather than granting a permanent residence permit, an applicant would be granted a five-year residence permit only and would have to apply for renewal of that permit.

This has subsequently been replaced by section 46 of the 2010 Bill, which is largely similar in terms of the required eligibility criteria. However, it provides a welcome important distinction in that an applicant that fulfils the eligibility criteria shall be entitled to ‘long-term residence’, as opposed to having to rely on the Minister positively exercising discretion. However, the draft legislation does not provide for any right of review or appeal against a decision to refuse long-term residence.

At the time the draft Bills were published, the ICI expressed concerns<sup>53</sup> regarding the proposed introduction of English-language requirements, in a context of little State-supported funding or access to classes.<sup>54</sup> The ICI also raised serious questions about the extent to which some of the criteria were so vague and open to subjective interpretation that there was a danger it would be impossible to achieve consistent standards of decision-making.

<sup>50</sup> Prior to the publication of these proposals, the former Minister for Justice, Equality and Law Reform, John O’Donoghue, TD, had launched the first public consultation process on Immigration Policy in 2001. The review of the public submissions is published at: <http://www.inis.gov.ie/en/INIS/SubmissionsReview.pdf/Files/SubmissionsReview.pdf>

<sup>51</sup> Department of Justice, Equality and Law Reform, *Immigration and Residence in Ireland: Outline policy proposals for an Immigration and Residence Bill* (2005)

<sup>52</sup> Section 36, Immigration Residence and Protection Bill 2008 and section 46, Immigration Residence and Protection 2010

<sup>53</sup> The Immigration Residence and Protection Bill 2010 – A critical overview (ICI, 2010)

<sup>54</sup> For a comprehensive analysis of language programmes, see Healy, C. *On Speaking Terms: Introductory and Language Programmes for Migrants in Ireland* (ICI, 2007)

The draft legislation is at committee stage in the legislative process. However, the recently elected new Government has signalled its intention to introduce significant amendments. In the meantime, pending amendment and enactment of the draft legislation, it remains unclear whether or not ‘Green Card’ holders will be permitted to apply for long-term residence in accordance with the existing administrative arrangements or whether the existing arrangements will be extended to allow residents other than employment permit holders to apply.

To date, there have been no governmental proposals to review or reform the existing WCATT status.

### **1.2.7. Concluding Observations**

Although in most immigration systems there are forms of temporary residence for study, work and working holiday purposes, many countries assess a person for permanent residence prior to admission.

In contrast, in Ireland all categories of residence permit holders, other than employment permit holders, are currently not eligible to apply for a long-term residence permit in Ireland, which is itself not a permanent status. Therefore, all migrants, with the exception of EEA/Swiss nationals and their family members, always have a temporary residence status, unless granted WCATT, and lack of clarity regarding their rights and entitlements or duties and responsibilities in the State.

The discretionary nature of the process for granting of long-term residence permits and the lack of a permanent residence status means that Ireland provides migrants with almost the least favourable rights to security of residence status of all EU Member States.<sup>55</sup>

The only truly secure status in Ireland that provides a clarity regarding both rights and obligations is citizenship, which is considered in the next section.

## **1.3. Citizenship/Naturalisation: An Overview of Legislative and Administrative Procedures in Ireland and Other Countries**

### **1.3.1. Citizenship in Ireland**

Article 9(1) of the Irish Constitution provides that any person who enjoyed citizenship of the Irish Free State before the coming into operation of the Constitution on 29 December 1937 shall become and be a citizen of Ireland. Thereafter, the Constitution provides that law shall govern the future acquisition and loss of Irish nationality and citizenship. The Constitution makes one important stipulation, namely that no person may be excluded from citizenship on grounds of his or her sex.

The provisions of the Irish Nationality and Citizenship Acts, 1956-2004, govern the acquisition of Irish citizenship. In general, there are three main ways that Irish citizenship may be acquired – automatically at birth, by descent or by

<sup>55</sup> Huddleston, T., *et al*, Migrant Integration Policy Index III (MPG, 2011)

naturalisation, if particular conditions are fulfilled. The focus of this paper is on adults acquiring citizenship by way of naturalisation only.

### **1.3.2. Applying for Citizenship by Naturalisation in Ireland**

*“Naturalisation is a process whereby a foreign national can apply to become an Irish citizen. The granting of Irish Citizenship through naturalisation is a privilege and an honour and not an entitlement.”*

#### **Irish Naturalisation and Immigration Service**

Non-Irish nationals are eligible to apply for citizenship in Ireland if they fulfil a number of statutory eligibility criteria. An applicant must be over 18 years old, be of ‘good character’ and have resided lawfully in Ireland for at least five of the previous nine years, including at least one year continuously immediately prior to the application. Time spent living in Ireland as an asylum seeker or international student does not qualify as ‘reckonable residence’ for this purpose. In addition to residence and good character requirements, the applicant must intend to continue living in Ireland if naturalisation is granted and is required to make a ‘declaration of fidelity to the nation and loyalty to the State’.<sup>56</sup> Provided that these eligibility criteria are fulfilled, the Minister for Justice may grant citizenship at his absolute discretion.<sup>57</sup>

The Minister may also, at his absolute discretion, grant citizenship to the spouse of an Irish citizen if particular criteria are satisfied.<sup>58</sup> These criteria are broadly similar to those outlined above, namely the applicant must be aged over 18 and be of ‘good character’. The applicant must be married to an Irish citizen for at least three years and the marriage must be subsisting and recognised by Irish legislation. Additionally there are residency requirements to be fulfilled (although they may be waived), including that the applicant must have been resident in Ireland for at least one year continuously prior to making the application, have been resident in Ireland for at least two years of the four years preceding that period and must intend in good faith to continue to reside in Ireland after naturalisation. In respect of the residency requirement, time spent outside of the State in the company of an Irish spouse working in the public service will be counted as time spent in Ireland. The applicant must also make a declaration of ‘fidelity to the nation and loyalty to the State’.

In all cases, applications for naturalisation are made by completing the relevant application form, which is submitted, together with all of the required documentation, to the Citizenship Division, INIS.

Upon receipt, an initial examination of each application is carried out to determine that the application form is completed fully and correctly and that all

<sup>56</sup> Section 15 of the Irish Nationality and Citizenship Act 1956 (as amended)

<sup>57</sup> Section 16 of the 1956 Act (as amended) allows the Minister to dispense with the normal eligibility criteria where the applicant is of Irish associations. Section 16(2) says that ‘Irish associations’ means the person is related by blood, affinity or adoption to a person who is or was prior to their death an Irish citizen or otherwise entitled to be an Irish citizen

<sup>58</sup> Section 15A of the Irish Nationality and Citizenship Act 1956 (as amended)

requested supporting documentation has been submitted. Passports and other documentation are then examined in detail and inquiries with the GNIB are also necessary to determine if the applicant meets the statutory residency criteria as set out in the Irish Nationality and Citizenship Act 1956 (as amended).

If an application is deemed valid and accepted for processing, the applicant is issued with an acknowledgment letter stating that applications are processed chronologically and the current average processing time. Thereafter, very little is known about what actually happens to applications.

According to the-then Minister for Justice, as outlined to the Dáil<sup>59</sup>, further processing takes place at a later stage. This involves assessing an applicant's financial status in respect of his/her ability to support himself/herself in the State. Inquiries with the Revenue Commissioners and the Department of Social and Family Affairs may be necessary in this regard. Investigations are also undertaken to determine if the applicant can be considered to be of good character. Once all inquiries are completed, a report is prepared and the file is referred to the Minister for Justice for a decision.<sup>60</sup> However, it is not known whether the various background checks undertaken are commenced as soon as the application is deemed valid or at some later stage, or whether checks with different Departments are done individually or contemporaneously.

*“The process was bizarre. Efficient in some ways and utterly inefficient and highly questionable in others. Really good at acknowledging receipt of documents and then, as a user of the system, the delay in progressing appears to be just poor administration. Rather than review all documents immediately and identify any/all issues, it was like they looked at one document at a time and didn't deal with anything else until that first document was dealt with. They asked for a lot more documents than were ever outlined at the time of applying, including all of my husband's financial information. I asked and none of the references I provided were ever contacted.” (Mary, CS8)*

The INIS website states that average processing times are currently 25 months.<sup>61</sup> However, the experience of participants in this study suggests that processing times vary considerably. One respondent in this study, a refugee, reported they had received a positive decision after only five months, whereas another, also a refugee, reported a processing time of almost five years. Pierre (CS6) states: *“The processing time is a nightmare.”*

As identified above, the Minister for Justice may grant citizenship at his absolute discretion. The Irish courts have repeatedly noted that the 1956 Act (as amended) empowers the Minister to confer the privilege of citizenship on a foreign national who has applied for naturalisation but that the granting of naturalisation is not a mandatory consequence once the eligibility criteria for applying are satisfied.<sup>62</sup>

<sup>59</sup> Minister for Justice, Equality and Law Reform, Mr Dermot Ahern, TD, Dáil questions, Wednesday, 25 February 2009

<sup>60</sup> Ibid

<sup>61</sup> Information on Application Processing Times, Citizenship, INIS, April 2011

<sup>62</sup> For a recent decision providing an overview of some of the Irish case law on citizenship, see *Abuissa v The Minister for Justice, Equality and Law Reform*, 10 [IEHC] 366

The legislation does not provide any definition as to what constitutes ‘good character’ and there are no published guidelines in this regard.

*“With regard to people being refused citizenship... By and large, any refusal due to a criminal record is because the person has committed reasonably serious criminal offences, such as serious road traffic accidents and upwards.”*

**Minister for Justice, Equality and Law Reform, Mr Dermot Ahern, TD, Select Committee on Justice, Defence and Women’s Rights, 12 November 2010**

However, it is clear from the case studies in chapter two of this report that the Minister does refuse applications for citizenship where the applicant has come to the ‘adverse attention’ of An Garda Síochána, even if there have been no criminal charges brought against the person and no conviction in respect of any offence. This was the experience of Pierre (CS6). Similarly, Ivan (CS1) was refused citizenship after four years for a single driving infringement that resulted in a €100 fine.

The Minister frequently refuses applications for citizenship where the applicant has availed of their entitlement to be in receipt of social welfare, even for a short period of time, and there do not appear to be any exemptions made for situations such as lone-parents, domestic violence or persons accessing disability or illness benefits. This is examined in more detail in chapter three.

Rahim was refused citizenship for receiving disability benefit temporarily after a work place accident.

*“Honestly, I just feel reminded I have no concern here. I have total affiliations, paying my taxes, my children, people know me, living here for the most part of 10 years, sacrificed my family. You have no idea how personally bad I feel. I have never heard of this. I knew a few people are refused for crimes, knew it took a long time... 33 months or 46 months. But I never heard this. For disability? I still can’t believe it. I’m in a bad situation.” (Rahim, CS21)*

The legislation does not provide any entitlement to appeal against a decision of the Minister for Justice in a naturalisation application. However, it is reported that occasionally applicants have been successful in seeking an administrative review of a decision to refuse an application.

There is currently no fee for applying for naturalisation but, if granted, the successful applicant must pay €950. In the case of widows and widowers of Irish citizens and naturalised minors, the fee is €200. However, a service user of the ICI, who is the widow of an Irish citizen and who was granted naturalisation, was informed that she is required to pay the higher fee. On seeking clarification of this, she was informed in writing that this is because her Irish spouse was a naturalised citizen and not an Irish-born citizen. In response to a parliamentary

question on this issue, the Minister for Justice, Equality and Defence stated: “The fees in relation to Irish Nationality and Citizenship are set out in Statutory Instrument No 294/2008. This provides that, where the application is made by a widow or widower whose spouse was, immediately before death, an Irish citizen, and who has not, subsequent to the spouse’s death, become a naturalised citizen of a state other than this State, that a fee of €200 applies. I am advised by the Irish Naturalisation and Immigration Service that no distinction is made between the categories of persons referred to by the Deputy.”<sup>63</sup>

In respect of migrants who are resident in Ireland with their non-Irish minor children, the parent generally must have first made a successful application for naturalisation before an application on behalf of their minor child will be accepted.

### **1.3.3. Data on Naturalisation Applications/Rates of Naturalisation in Ireland**

According to Department of Justice annual reports the number of applications for naturalisation has steadily increased in recent years.

It is reported that 8,003 applications for naturalisation were received in 2007, representing a 13 per cent increase on the previous year. During 2007, 1,501 naturalisation certificates and 3,148 post-nuptial citizenship certificates were issued.<sup>64</sup>

A total of 10,885 applications for a certificate of naturalisation were received in 2008, a 36 per cent increase on the previous year. During 2008, 7,827 applications were processed and 3,117 certificates of naturalisation were issued.<sup>65</sup>

In 2009, INIS received 27,765 applications for a certificate of naturalisation. This represented an increase of 155 per cent on 2008 levels. A total of 25,582 applications were processed during 2009, with 12,242 rejected as invalid and a further 6,011 deemed ineligible. Of the 7,329 eligible applications processed, 5,868 were approved and 1,461 were refused. A total of 4,531 certificates of naturalisation were issued during the year.<sup>66</sup>

Although the above figures provide a certain amount of information, it is difficult to fully analyse them. The Department of Justice does not publish disaggregated data detailing the numbers of applications submitted in any given year, when those applications are actually granted or refused and, if refused, the reasons for the refusal.

<sup>63</sup> Dáil question No 118 addressed to the Minister for Justice, Equality and Defence (Mr Alan Shatter) by Deputy Caoimhghín Ó Caoláin for written answer on Wednesday 6 April 2011

<sup>64</sup> Department of Justice, Equality and Law Reform Annual Report 2007 at p. 27

<sup>65</sup> Department of Justice, Equality and Law Reform Annual Report 2008 at p. 32

<sup>66</sup> Department of Justice, Equality and Law Reform Annual Report 2009 at pp. 27-28

From an international comparative perspective, Ireland has the second-lowest acquisition of citizenship rate in the EU. According to figures published by the EU statistical office Eurostat on the number of foreign residents granted naturalisation (citizenship) by EU Member States, Ireland has the lowest rate of naturalisation.<sup>67</sup> The highest rates were registered in Sweden (54 citizenships granted per 1,000 resident foreigners), Portugal (51), Poland (48), Finland (47) and Hungary (43). The EU27 average was 23 citizenships granted per 1,000 resident foreigners. However, the figures revealed that Ireland's rate was only six.

### 1.3.4. Applying for Citizenship in Other Countries

This section outlines the standard eligibility criteria and process of applying for citizenship by way of naturalisation as an adult in key countries of immigration, namely the UK, the United States (US), Canada, New Zealand and Australia.

All of the information provided has been obtained from the official government websites of the relevant countries listed. Each of the requirements detailed below are set out comprehensively and elaborated on in some detail on the relevant government websites.

Country	Average Processing Time from Lodgement to Decision	Application Fees	Appeals Process
<b>Ireland</b>	25 months	€950	None
<b>The UK</b>	6-7 months	£780GBP (€913)	No independent appeal but representations to Home Office why decision not correct
<b>The US</b>	3 months	\$680USD (€495)	Administrative review process within 30 days and appeal in US District Court
<b>Canada</b>	13-16 months	\$200CAN (€135)	Appeal to Federal Court
<b>New Zealand</b>	6 months	\$460NZ (€233)	Information not available
<b>Australia</b>	2 months	\$130-260AUS (€96-122)	Independent review by Administrative Appeals Tribunal

<sup>67</sup> Eurostat <http://ec.europa.eu/eurostat>

## United Kingdom<sup>68</sup>

*“Becoming a British citizen is a significant event and should be celebrated in a meaningful way. At the ceremony, you will be welcomed into your local community and meet other people in the area who are becoming British citizens.”*

### UK Border Agency

To be eligible for naturalisation in the UK, it is generally required that the applicant:

- Be aged 18 or over
- Be of sound mind (discretion)
- Intend to continue living in the UK
- Be able to communicate in English, Welsh or Scottish Gaelic to an acceptable degree
- Have sufficient knowledge of life in the UK
- Be of good character
- Meet residence requirement, including five years’ residence before the date of application and have not spent more than 90 days outside the UK in the last 12 months of the qualifying period and have not been in breach of the immigration rules at any stage during the qualifying period. Some discretion applies in respect of the time spent outside the UK during the last 12 months of the qualifying period
- Be free from immigration time restrictions (i.e. have permanent residence status during the last 12 months of the residential qualifying period)
- Pay the relevant application fee

The good character requirement is fulfilled if the applicant has shown respect for the rights and freedoms of the UK and has observed the laws and fulfilled duties and obligations as a resident. Background checks are carried out with the British police and other Government departments. Applications will normally be refused if the applicant has been convicted of a criminal offence and the conviction has not yet become ‘spent’ in accordance with the provisions of the Rehabilitation of Offenders Act 1974. This includes road traffic offences but not fixed penalty notices (such as speeding or parking tickets). Convictions resulting in prison sentences of more than 30 months for a single offence can never become spent and applications for citizenship are unlikely to be successful in these circumstances.

<sup>68</sup> Comprehensive information regarding the application process for citizenship in the UK is provided on the website of the Home Office: <http://www.ukba.homeoffice.gov.uk/britishcitizenship/aboutcitizenship/>



Checks are carried out to ensure that income tax and national insurance contributions have been made. The applicant is required to disclose if they have been declared bankrupt at any time and the application is unlikely to succeed if they are an undischarged bankrupt.

Since 2007, applicants are also required to demonstrate their knowledge of language and life in the UK. English language skills are set at or above ESOL (English for Speakers of Other Languages) entry three level. Applicants are required to pass the Life in the UK test before submitting the application for citizenship. The test consists of 24 multiple-choice questions based on an official handbook, Life in the UK: A Journey to Citizenship. On passing the test, a pass notification letter is issued and must be included in the citizenship application. Passing the test also provides evidence of an applicant's language skills. There are some exemptions from the knowledge of language and life requirements for persons over the age of 65 or with permanent learning disabilities. If the application is successful, applicants are required to attend a citizenship ceremony within three months.

If the application is unsuccessful, the applicant will receive the reason in writing and, although there is no right of appeal, an applicant can request an administrative review and can expect a reply explaining the decision.

### ***The United States***<sup>69</sup>

*"We are very pleased that you want to become a US citizen. The United States is a nation of immigrants. Throughout our history, immigrants have come here seeking a better way of life and have strengthened our Nation in the process."*

#### **US Citizenship and Immigration Services**

To be eligible for naturalisation in the US, it is generally required that the applicant:

- Have continuous residence with permanent residence status for at least five years, or three in the case of spouse, without leaving the US for trips of six months or longer
- Be aged 18 years or over
- Have lived for at least three months in the state or US Citizenship and Immigration Services (USCIS) district where residence is claimed
- Be physically present in the US for at least 30 months (or 18 months for spouses) out of the five years immediately preceding the date of filing the application

<sup>69</sup> Comprehensive information regarding the application process for citizenship in the US is provided on the website of the US Citizenship and Immigration Service, Department of Homeland Security:  
<http://www.uscis.gov/portal/site/uscis>

- Reside continuously within the US from the date of application for citizenship up to the granting of citizenship
- Be able to read, write and speak English, and have knowledge and an understanding of US history and government (civics). There are some age-based and disability exemptions
- Be a person of good moral character, attached to the principles of the Constitution of the US, and well disposed to the good order and happiness of the US during all relevant periods under the law
- Swear an oath of allegiance
- Pay the relevant application fee

An interview is conducted by a USCIS officer who tests an applicant's ability to read, write and speak English and knowledge of civics. Applicants are required to read one sentence out of three sentences correctly in English and to write one sentence out of three sentences correctly in English. The ability to speak English is determined during the interview and applicants must answer six out of 10 civics questions correctly to achieve a passing score. Applicants are given two opportunities to pass the test.

Applicants are required to provide full details regarding any arrests (even if they were not charged or convicted), convictions (even if the record was cleared or expunged), and crimes committed for which the applicant was not arrested or convicted. Applicants can submit any countervailing evidence or information regarding the circumstances of their arrests, and/or convictions or offences that they would like the USCIS to consider. Applications may be refused for failing to disclose convictions, even minor ones. However, unless a traffic incident was alcohol or drugs related, information does not need to be provided in respect of traffic fines or incidents that did not involve arrest if the only penalty was a fine of less than \$500 and/or points on the driver's licence.

If an application for citizenship is refused, the applicant may request a hearing with a USCIS immigration officer within 30 days of receiving the denial letter. Following this, if still denied citizenship, the applicant may file a petition for a new review of his/her application in the US District Court.

## Canada<sup>70</sup>

*“For many individuals and families, the citizenship ceremony is the realization of a dream. In some instances, it marks the beginning of a new life. The citizenship ceremony is a formalized rite of passage that pinpoints a specific time of entry into the Canadian family. It confers rights and acknowledges responsibilities. The ceremony is a celebration that is a reminder for all of the rich diversity of culture, ethnicity and languages that define Canada. The ceremony is a tangible example of the characteristics and symbols that bind us together as one nation.”*

### **Citizenship and Immigration Canada**

To be eligible for citizenship in Canada, it is generally required that the applicant:

- Is 18 years or older
- Has permanent resident status
- Has lived in Canada for at least three years in the past four years before applying
- Has adequate knowledge of either English or French to understand other people and vice versa
- Be of good character
- Understands the rights and responsibilities of citizenship, such as the right and responsibility to vote in elections, and also has an understanding of Canada's history, values, institutions and symbols
- Pass a citizenship test or interview with a citizenship judge
- Attend a citizenship ceremony and swear an oath of allegiance
- Pay the relevant application fee

Applicants for citizenship can also make applications for their children who are minors at the same time or after they have become a citizen.

A person cannot apply for citizenship if he/she: has been convicted of an indictable offence in the three years before applying; is currently charged with an indictable offence; is in prison, parole or probation; is under a removal order; is under investigation for, charged with, or has been convicted of a war crime or a crime against humanity; or has had Canadian citizenship taken away in the past five years.

<sup>70</sup> Comprehensive information regarding the application process for citizenship in Canada is provided on the Government website of the Ministry of Immigration and Citizenship:  
<http://www.cic.gc.ca/EnGLISH/citizenship/index.asp>

Applicants must take the citizenship test if they are between the ages of 18 and 54, and meet the other basic requirements for applying. The test is usually written. However, if the applicant does not pass, he/she will be asked to attend a short interview with a citizenship judge. The test evaluates two things: knowledge of Canada and language abilities. Questions are asked on subjects such as the right to vote and run for office, election procedures, the rights and responsibilities of citizens, Canadian social and cultural history and symbols, political history and geography. The test and other interaction with Citizenship and Immigration Canada staff demonstrate if the applicant has an adequate ability to communicate in either English or French. Applicants must be able to understand simple spoken statements and questions, and communicate simple information.

If the applicant passes the test, they must attend a citizenship ceremony to take the oath of citizenship. Unsuccessful applicants are entitled to appeal the decision to the Federal Court.

### **New Zealand<sup>71</sup>**

*“Since 1949 we have welcomed into the New Zealand ‘family’ a large number of migrants who have chosen to apply for a grant of citizenship... As a successful applicant for the grant of New Zealand citizenship, you are required to attend a public citizenship ceremony... Attending a public ceremony is a very important step in the process of becoming a New Zealand citizen. It is an opportunity for you to publicly declare your allegiance to New Zealand and for the local community to welcome you on behalf of all New Zealanders.”*

**The Department of Internal Affairs**

Although there are some exceptions to the residence criteria, to be eligible for citizenship in New Zealand it is generally required that an applicant:

- Has permanent resident status
- Has lived in New Zealand for a period of three or five years on that basis
- Must intend to continue to reside in New Zealand
- Is of good character
- Has sufficient knowledge of the English language
- Demonstrate an understanding of the responsibilities and privileges of being a New Zealand citizen
- Attend a citizenship ceremony and swear an oath of allegiance
- Pay the relevant application fee

<sup>71</sup> Comprehensive information regarding the application process for citizenship is provided on the website of the Department of Internal Affairs: <http://www.dia.govt.nz/>

Intention to reside is assessed by indicating this on the relevant application form. There are some exceptions for those in the employment of the State, international organisations recognised by the Government and employees of New Zealand businesses.

Applicants must be able to demonstrate that they can manage independently in everyday situations. This is assessed by examining applicants' standards of education and the nature of their employment. If necessary, the Citizenship Office may conduct a face-to-face interview/assessment to assess an applicant's ability to meet this requirement.

The Citizenship Office requires applicants to disclose full details of criminal charges and convictions. Background checks are conducted with the Police and other agencies. Except in rare circumstances, the applicant will be disqualified from meeting the requirement if they have been in prison for five years or more, have been subject to a sentence of imprisonment of less than five years in the previous seven years or have been convicted of an offence in the previous three years, even if not imprisoned. Applicants are not required to disclose previous criminal convictions if they are permitted to conceal their criminal record under the Criminal Records (Clean Slate) Act 2004. This is permitted, for example, if they have no convictions in the last seven years; have never been in prison; have not been convicted of particular offences; have paid all fines, costs and compensation required, and so on. Good character requirements are explicitly not affected by the applicant having received social welfare. These checks are conducted purely to establish residence in the country during the required period.

Generally, all applicants aged over 14 years are required to attend a citizenship ceremony. This is considered to be an important occasion where applicants publicly swear their allegiance to the Crown and the local community can welcome new citizens.

### **Australia<sup>72</sup>**

*"Australian citizenship is an important step in your migration story... It is the step that will enable you to say 'I am Australian'. Australian citizenship is a privilege that offers enormous rewards. By becoming an Australian citizen, you are joining a unique national community. Our country has been built on the combined contributions of our Indigenous people and those who came later from all over the world. We celebrate this diversity and, at the same time, strive for a unified and harmonious nation."*

**Department of Immigration and Citizenship**

<sup>72</sup> Comprehensive information regarding the application process for citizenship in Australia is provided on the website of the Department of Immigration and Citizenship: <http://www.citizenship.gov.au/applying/>

To be eligible for citizenship in Australia, it is generally required that the applicant:

- Has permanent residence status
- Fulfils a residence requirement as a permanent resident, which varies depending on whether permanent residence status was granted on or before 1 July 2007
- Is of good character
- Pass a citizenship test and attend a citizenship ceremony
- Pay the relevant application fee

Children under 16 years of age are usually included on a parent or legal guardian's application form.

Applicants are required to provide full details regarding any convictions in Australia or overseas. A conviction is a criminal charge leading to a guilty verdict in a court of law resulting in imprisonment, a fine or good behaviour bond. Traffic infringements, such as on-the-spot speeding or parking fines, are not considered a conviction. Certain circumstances relating to criminal offences prevent an application for Australian citizenship by conferral being approved, which include: being in prison in Australia or having proceedings pending; being released from a prison in Australia for less than two years after a serious offence, or 10 years if you are a repeat offender; and being subject to conditions set by an Australian court (such as being released on parole, good behaviour or bail), where action may be taken by the police for breach of those conditions.

Applicants are required to take a citizenship test, which is designed to assess adequate knowledge of Australia and the responsibilities and privileges of citizenship. It is also designed to assess basic knowledge of the English language. Everything applicants are required to know to pass the citizenship test is contained in the free test resource book *Australian Citizenship: Our Common Bond*.

The final stage in the Australian citizenship process is to attend a citizenship ceremony to make a 'pledge of commitment'. The ceremony is a legal requirement and is promoted as an important opportunity to officially welcome new citizens as full members of the Australian community.

Unsuccessful applicants are entitled to apply for the decision to be reviewed by the Administrative Appeals Tribunal.

### **1.3.5. Conclusions**

On the basis of the information outlined above, it is possible to quickly identify some very salient differences between the current legislative and administrative procedures in Ireland and those in operation in other countries.

- Applicants in the other countries examined have security of immigration status as permanent residence status other than citizenship is provided for. Other countries require citizenship applicants to be permanent residents. Ireland does not
- Most of the countries examined encouraged migrants to become citizens. Citizenship was considered equally an honour and a privilege but also something to be encouraged
- Other countries allow for minor children to be included in their parents' applications. In Ireland, parents must have been granted citizenship before their minor children can apply
- The countries examined provide applicants with very clear information about issues that might have an impact on the granting of citizenship, such as changes in personal circumstances that may affect the information provided when applying and travelling outside of the country during the application process
- The other countries conducted very similar background checks of applicants to those conducted by Irish authorities, but within a much shorter timeframe
- Other countries provide clear guidelines about their 'good character requirements' – the types of offences taken into account and the procedures for 'cleaning the slate' – and do not take into account minor road traffic infringements, fines and penalty points
- Despite the longer processing times, the fees payable by successful applicants are generally higher in Ireland
- There is no avenue for an independent appeal for a refusal to grant citizenship in Ireland. Most other countries provide appellate procedures.
- Ireland does not conduct ceremonies for new citizens. In other jurisdictions, citizenship ceremonies are considered an important part of the process, and a significant and welcoming occasion for both new and established citizens

### ***1.3.6. Proposals for Reform of Citizenship/Naturalisation in Ireland***

Citizenship law and policy has not been the subject of much political debate in Ireland since 2004's constitutional Citizenship Referendum, amending automatic birthright citizenship. There are currently no formal governmental proposals to amend the existing naturalisation legislation, although, as previously noted, there are commitments in the current programme for Government to review processing times.

The former Minister for Justice and Law Reform, Mr Dermot Ahern, TD, had indicated that a general review of the framework for the acquisition of Irish citizenship was under way within the Department of Justice and that this would be progressed in consultation with the Office of the Minister for Integration. It

was signalled that among the issues being considered as part of the review is the general question of whether current eligibility requirements are appropriate and whether language and integration requirements should apply to naturalisation applications.<sup>73</sup>

As outlined above, the draft Immigration, Residence and Protection legislation proposes that applicants for long-term residence demonstrate a reasonable competence in the English (or Irish) language and that they have made reasonable efforts to integrate into Irish society. If the provisions of this draft legislation are enacted, it would be excessive in the extreme to require citizenship applicants to repeat such testing during the naturalisation process.

<sup>73</sup> Information provided by former Minister Dermot Ahern, TD, Dáil Debates, Wednesday 25 February 2009. See: <http://www.kildarestreet.com/debates/?id=2009-02-25.480.0>





# LIVING IN LIMBO

*Case Studies*





## LIVING IN LIMBO – CASE STUDIES

The previous chapter set out the legal basis and administrative procedures governing applications for long-term residence and citizenship in Ireland as well as in other jurisdictions. It provides a sense of some of the issues arising in the Irish context, including, for example, the levels of discretion conferred on the Minister for Justice, the temporary nature of immigration status granted to migrants and the delays in the processing of many applications for naturalisation.

In this section, the experiences of the interviewees living in Ireland who have applied for or who wish to apply for Irish citizenship are set out in more detail. These case studies are intended to provide a more detailed overview regarding these migrants' experiences and perspectives of the Irish immigration system, their motivations for applying for citizenship, their views on the naturalisation process and, if they have received a decision, the impact on them of the decision to either grant or refuse citizenship.

It is these case studies, together with the legislative and administrative context, that convey a full sense of the broad range of issues migrants living in Ireland face in the immigration and citizenship process. Brief extracts of case studies compiled from the interviews, as well as quotes from the interviewees, are also used throughout other chapters to illustrate some of the points made in the different sections.

The case studies reflect the experiences of the 22 individuals who consented to be interviewed for this study and do not necessarily reflect the experiences of all migrants living in Ireland. A number of interviewees who participated in this study are still waiting for decisions in their applications for citizenship. In writing up their stories in these case studies, their names and some personal details (such as, for example, their nationality has been changed to protect their identity). However, all details such as processing times for immigration applications, information received by applicants during the processing of their application, the reasons for refusal to grant citizenship and so on are all factually accurate.

### ***Case Study 1: Ivan***

Ivan, a refugee, applied for citizenship in July 2003. The application was acknowledged promptly and he was informed that it was expected his application would be considered in the second half of 2004.

In February 2005, the Department of Justice's Citizenship Division asked him to submit his original birth and marriage certificates in support of the application. These documents were already in the possession of a different division of the same department and translations of them had been obtained previously for his application for asylum. However, he was now required to obtain additional translations of the documents to support his citizenship application.

After several letters, his original certificates were returned to him and he obtained the additional translations. He sent them in to the Citizenship Division in March 2005. He telephoned the Citizenship Division shortly afterwards and was informed that he could likely expect a decision in August 2005.

In October 2005 and March 2006, his legal representative sought an update on the status of the application. Neither letter was replied to.

Aware that friends who had lodged applications after his had already received decisions, Ivan became increasingly stressed about his situation. In April 2007, nearly four years later, his application was refused on the grounds that he had come to the “adverse attention” of the gardaí. This related to a driving infringement that resulted in a €100 fine.

### ***Case Study 2: Davide***

Davide made an application for citizenship in October 2005. He had moved to Ireland to work almost six years previously. Davide’s application was refused in November 2005 on the basis that he had been deemed to have insufficient “reckonable residence”.

He immediately requested a review of this decision by submitting documents to clarify that he did have the required five years’ (60 months) residence. Davide never received a substantive reply. However, in March 2006, he received a letter indicating that his application would likely “be further examined in late 2008”.

In February 2008, he was informed that the processing time for applications was about 30 months from the date of receipt of an application. In this case, that should have been around April 2008.

In June 2009, having still received no reply and having lodged his application more than 43 months previously, Davide instructed the ICI to deal with the matter. A response was received to the effect that judicial review proceedings in another case related directly to a pertinent issue that had also arisen in Davide’s case and his application would not be determined until the judicial review proceedings concluded. No explanation was provided as to what the pertinent issue was. The Department of Justice subsequently clarified that it related to “the contents of a report from an outside agency” but did not provide any further information or ask for any clarification from Davide.

In July 2009, Davide was informed that his application had been approved. His Certificate of Naturalisation was issued six months later in January 2010. The process took 51 months in total.

**Case Study 3: Suzanne**

Suzanne has been legally resident in Ireland since 1995 and is a single parent of two Irish children. She applied for citizenship in 2000 but was refused on the basis that she did not have sufficient “reckonable residence”. She reapplied in 2005.

In February 2007, Suzanne was informed again that she did not have enough reckonable residence at the time of submitting the application. However, as it appeared that, by that stage, she might now have reckonable residence, she was invited to submit another application, which she did.

In June 2009, Suzanne was informed that her application was not successful. She was told that the Minister had exercised his absolute discretion as she had availed of, or benefitted from, State financial support. The Minister had adopted a general policy that applicants must show that they have supported themselves and are in a position to do so into the future. Applications may be accepted if there is no evidence that they have accessed State support in the three-year period prior to the date of the application or after it is lodged.

Suzanne had in fact not been in receipt of one-parent family payments since 2003, as she had been working full time. She wrote to the Department of Justice with this information. Suzanne’s correspondence was acknowledged and she was informed that there was no provision for an appeal of the refusal of her application but she could lodge a new application if and when she was in a position to meet the statutory criteria.

There is no reference in legislation, either directly or indirectly, when setting out the eligibility criteria for applying for citizenship, that being in receipt of State financial support is taken into account when a citizenship application is determined. Suzanne was also confused by the correspondence, having been requested by the Department during a telephone call to re-submit her request for a review after she had received the letter stating she could not appeal. She instructed the ICI to request an administrative review of her application on the basis of error of fact and disproportionality. In September 2009, her application was approved.

**Case Study 4: Soraya**

Soraya moved to Ireland in the late 1980s. She was accompanying her husband, who was a medical student. Following the completion of his studies, they decided to settle here. The country they had left was experiencing political problems and Ireland was home to their three young children who were born after their arrival.

Soraya first applied for citizenship in 1996. Her application was refused. She was unaware that the years she had been living here while her husband was

studying didn't qualify as "reckonable residence".

Soraya re-applied and the application was refused again, this time without any reason being provided at all. A third application was refused in 2005 as, after separating from her husband due to domestic violence, she was temporarily in receipt of social welfare to assist her to provide for her children. Soraya's fourth application, lodged in 2007, was refused three years later on the grounds that, although she works part-time in the Civil Service, she also receives a disability benefit.

The most recent rejection of her application, after almost 25 years living in Ireland, devastated Soraya. She has visited her GP due to stress from the decision and regularly attends women's groups for additional support. In her view, she has been treated very unfairly.

She dedicated her life to rearing her children, returning to study and employment when they were older and opportunities arose. She volunteers as a translator for organisations in the community and voluntary sector. Soraya sought the advice of a private solicitor who told her to re-apply. She decided against this, preferring to write a personal appeal to the Minister. She received a reply informing her that there is no appeal and that she could re-apply.

### ***Case Study 5: Jane***

Jane, originally from the US, moved to Ireland for employment purposes and has been living here for more than 10 years. She applied for citizenship as soon as she was eligible after five years' residence. At the same time, she also applied for long-term residence.

Although grateful for her employer's support in renewing her work permit annually, Jane was keen to secure long-term residence to alleviate the stress caused by the uncertainty of the work permit renewal process. Although renewals were submitted six weeks to three months in advance of their expiry every year, her permit lapsed every year.

Following EU enlargement, there were constant work permit policy changes. Jane constantly wondered if and when the Irish Government would declare her migrant worker category ineligible. This did, in fact, happen at one point and meant she could only renew the permit with her existing employer. She could not move to another position in the same sector, although the economy was still strong at the time.

Jane was granted long-term residence after five months, although the average processing time then was four weeks. For Jane, citizenship seemed the only real way to allow her to live in Ireland without the threat of losing residence status because of the changing economic situation and lack of clarity about Government migration policies.

Four years after applying, Jane was delighted and relieved to receive a positive decision in her citizenship application. Prior to this, she constantly feared that she would be refused not just citizenship but also residency status due to some unknown policy consideration, despite her considerable work history over a 10-year period. This interfered with her ability to make long-term plans and to feel secure in putting her roots down in Ireland.

### ***Case Study 6: Pierre***

Pierre, a refugee, came to Ireland as a teenager and has been living here for more than 10 years. He was granted citizenship last year. Before that, as a recognised refugee, Pierre had a temporary residence card, which he was required to renew annually.

Although Pierre was confident that his refugee status would always be renewed, having a temporary residence card and associated travel document did present difficulties. Last year, prior to receiving his citizenship decision, Pierre was made redundant after four years' continuous employment in the financial services sector. While searching for a new job, his temporary residence card became due for renewal within a few weeks. He was refused a position by one employer who was concerned that his residence permission was too temporary and may not be renewed.

Making travel plans was almost impossible – his travel document was only valid for short periods of time and, even if it was recognised, by the time a visa was issued by the country he wanted to go to, his residence card and travel document might become due for renewal again within a few weeks. Pierre also found it embarrassing to explain to immigration officials everywhere why he wanted to travel and why he had no passport.

As a refugee he could not apply for a long-term residence permit but, in any event, he was keen to apply for citizenship. Although formally a citizen of the country he fled, as a refugee he was unable to carry a passport of that country or to travel there and, effectively, felt stateless. Pierre believed that citizenship of Ireland would reflect that this is now his home and country.

He first applied for citizenship shortly after he was granted refugee status but the application was rejected. Although he was resident during the three-year period in which he was waiting for a decision, he did not have three years' residence as a refugee at the time of applying for citizenship. The letter refusing his application stated that this was the Minister's policy – a policy which was apparently introduced whilst his application was pending and of which Pierre was unaware.

Pierre decided to re-apply in 2005. Three years later, in 2008, Pierre received a letter informing him that his application had been processed and that the



Minister had decided to defer making a decision for 12 months. No explanation for this was given and he contacted the Department of Justice to try to clarify what was going on. He received no reply. Concerned not to undermine his application, Pierre decided not to pursue the matter.

After 12 months, when he did not receive a decision, he wrote a reminder enquiring about his application. Pierre did this every month until, five months later, he received a decision refusing his application on the grounds that he had allegedly come to the “adverse attention” of An Garda Síochána. On one occasion he had been questioned in relation to a particular incident and released without charge – he had been at college at the time the alleged offence occurred and CCTV footage showed the perpetrator was someone else. On another occasion, he was requested at a road check to bring his driver’s licence and insurance documents to a Garda Station, which he did.

The letter informing Pierre that his application was refused stated that he had no right of appeal. Pierre was depressed, stressed and angered by the whole process and the nature of the decision. Pierre instructed the ICI to seek an administrative review of the decision and, after another seven months, the decision was reversed.

Delighted to now be a citizen, Pierre nonetheless has very strong views that the entire system should be reformed. In his view, there is a lack of transparency or accountability and a failure to take account of the special needs of refugees.

### ***Case Study 7: Judith***

Judith is Australian and has been living and working in Ireland for six years. She intends to apply for long-term residence and citizenship as soon as she can but isn’t yet able to do so. There have been delays in processing her work permits every year, which have prevented her from renewing her residence permits on time. Therefore, there are gaps in her ‘reckonable residence’.

Every time she goes to the GNIB to renew her residence permit, she is concerned about what will happen. The last time she went to renew her permit, she brought all the specified documents. However, the GNIB refused to renew the permit because she didn’t have a letter from her employer, although this was not on the list of required documents that she was given. Judith said she left the building, went for a coffee, returned an hour later and had her permit renewed without delay by a different officer.

Judith finds the system confusing. She says that it is very difficult to find reliable information from officials about what is actually required for any application. She had been informed by the Department of Enterprise that she would automatically qualify for long-term residence after two years as she

had been issued with a two-year 'Green Card' employment permit in 2007. However, despite the fact that Green Card permits were promoted as being a fast track to permanent residence after two years, the necessary regulations have never been introduced. Therefore, Judith currently has only a temporary, 12-month permit.

Judith is not really interested in long-term residence as it is currently proposed as it is not truly permanent, but she will apply for it as it provides more security than her current permit. She worries constantly about 'what ifs' (for example, if one of her family was sick and she had to leave for a few months). She has no idea if she would have the right to return.

Although Judith has bought a home, she was previously rejected by a mortgage provider due to her immigration status. She is keen to apply for citizenship, not just for security of status but because she has invested in her life here by buying her own place, building her career and making friends. Passionate about current affairs, Judith would also love to be able to vote in the country where she pays tax.

### ***Case Study 8: Mary***

Mary, originally from New Zealand, is a naturalised Irish citizen and has been living in Ireland for more than 10 years. She works in public affairs and considers herself fairly literate when it comes to reading information and policy documents. However, she found it difficult to find or understand immigration information and states that she never got a straight answer from anyone in the system.

Prior to being granted citizenship, she was resident as the spouse of an EU citizen and was granted temporary, one-year permits every year, even though she knew she was entitled to a five-year permit or even permanent residence when an EU Directive came into effect in 2006.

She feels that the transition was very poorly managed. Rather than making her situation easier, she found things even more difficult than ever before. She describes how one specific immigration officer did everything possible to try to obstruct her and anyone else seeking assistance by being verbally abusive and shouting. Occasionally, she would go to the immigration office and, if she saw he was on duty, she would just leave and go back later. She says that on one occasion the immigration officer informed her that he would refuse to issue her residence card if she had not been granted citizenship by the time she was next due to renew. However, she says she never made a complaint, believing it was better to keep her head down in a discretion-based system.

The decision to apply for citizenship was fairly simple and not a very emotional one, until later. Mary had established her family life and career in Ireland and wanted to have security. However, the significance of her decision hit home when the application was granted and acknowledged that she was joining the nation on a permanent basis. Her application for citizenship took more than three years to be processed and it was a relief when she finally received the decision.

Mary was also glad that she was not required to sacrifice citizenship of her country of birth. However, she acknowledges that not everyone may have that option or may wish to take up citizenship in Ireland.

Mary felt the annual uncertainty arising from a system built on temporary status is unreasonable for people who have established their lives and careers in Ireland. She believes that a permanent status other than citizenship should be offered.

### ***Case Study 9: Monica***

Monica first came to Ireland on holiday from the US and liked it here. At that time, it was relatively easy to get a work permit. From the outset, Monica knew she wanted her move to Ireland to be permanent. She found an employer who applied for a permit for her and she stayed in the same job for a few years. Her employer seemed to have good contacts and, although her permit was always renewed, it felt to her like both her employer and officials were a bit lax about it.

One year, when she was applying for the permit, the Department of Enterprise introduced new ineligible categories. Although she had been assured this wouldn't cause a problem, it took about six months for the Department to waive the criteria in her case and her residence permit was expired during all of this time. This later caused difficulties for Monica when it came to applying for long-term residence, as there were gaps in her residence stamps. She applied for citizenship as soon as she was eligible.

Monica feels there was a lack of information available about some of the documentation required but she was assisted by a friend who had already been through the process.

After she applied, Monica promptly received an acknowledgment. She then heard nothing at all for a couple of years until she was asked to submit updated details. Again, she heard nothing for months and phoned periodically to try and get an update. She found it difficult not knowing what was going on.

After three years, Monica's application was approved. She was then required to swear the oath of fidelity. However, there was a six-month waiting list at her local district court and she was glad to get a time to take the oath two

weeks later after a cancellation. The ceremony was very quick but not a big celebration. A few people in attendance applauded.

Monica returned all her documents and waited five weeks for her Certificate of Naturalisation to be processed. Her application was pending during a referendum and a general election, so she was looking forward to being able to vote in the elections held earlier this year.

### ***Case Study 10: Evan***

Evan is South African and first moved to Ireland in 2003 on a work authorisation permit as an IT professional. Six years later, he married his girlfriend, who is an EU citizen.

A year previously, having lived in Ireland for employment purposes, he had applied for long-term residence. However, the application was declined after 19 months on the basis that he already had permission to live and work in Ireland for a five-year period as the spouse of an EU citizen. He thought this was unfair as he had applied for long-term residence first and would have preferred to have retained immigration status completely independently of his relationship.

Evan had applied for the residence permit as the family member of an EU citizen because it seemed to be the most efficient way of dealing with his residence status at the time. Renewing his employment permit was constantly problematic, high fees had been introduced and acceptance or refusal was dependent on discretionary policies. Evan did not realise that his 'change of status' would affect the long-term residence application he had already submitted. There was no mention of this on the INIS website.

Evan has also applied for citizenship and has been waiting two years for the application to be processed. Initially, his application for citizenship was rejected by the INIS, as the GNIB had not endorsed his passport correctly when he first presented for registration. Evan was very surprised that the INIS was unable to verify his immigration and residence history by checking the records internally, given that they are agencies within the same Department. Luckily, the GNIB did have a record in their files that he had registered and he was able to get a letter for the INIS confirming his residence history. His application was then accepted.

Evan is aware from information provided by INIS that there is an expected processing time of 25 months. He has contacted the INIS several times to enquire about the current status of his application. However, he has only received the same 'machine-generated' answer to each of his enquiries rather than a specific answer to any of his particular questions.

Evan believes that migrant workers and their contributions to the economy

are ignored and undervalued by the Irish Government and that the processing times and fees payable for both long-term residence and citizenship applications are out of par internationally and are unacceptably high. He also believes that the policies and delays are motivating migrants to relocate their 'know how' overseas.

Although he has a valid residence permit, Evan remains disappointed that his long-term residence application was refused. He strongly believes that the current processing times and levels of discretion are highly frustrating for all workers seeking to settle or make plans. He also questions a system that requires a worker to go through very expensive employment and residence permit renewal only to find that, a month later, long-term residence may be granted, for another high fee, and a new residence permit must then be issued, again for a fee.

Evan believes that many migrants have multiple applications pending at once just to "cover all bases". Throughout his residence in Ireland, Evan has consulted with several lawyers specialising in immigration. He is shocked at the lack of transparency regarding the policies and reluctance of INIS to state what the actual requirements are. He personally questioned why he was applying for both long-term residence and citizenship. Long-term residence was for security of status; citizenship because he loves the country and its history and for the right to vote in the country in which he pays tax.

### ***Case Study 11: Riaz***

Riaz moved to Ireland with his wife and four children 15 years ago. They applied for asylum on arrival and, after three years, were granted humanitarian leave to remain.

He and his wife first applied for citizenship in 2005. Their applications were refused two years later on the basis that they apparently did not fulfil the five years' residence criteria when they applied. Riaz is confident that they did fulfil the criteria. However, after being informed they could not appeal, and rather than argue and delay, they simply re-applied in 2008. Three years later, they have no idea what stage their applications are at and are still waiting for a decision.

Riaz describes their experience as a very long and painful process. They would have liked to apply for their minor children to become citizens at the same time but they cannot do so until their own applications are approved. Their two older children applied as soon as they turned 18 and are also waiting for decisions.

Waiting for the decision has made life extremely difficult for his children's third-level education. Although they have completed their primary and

secondary education in Ireland, they are only eligible to attend university if they pay the fees that would be paid by EU students – and only on this basis if the college decides to waive the even higher international student fees.

Riaz's eldest child completed all of his Leaving Certificate subjects with honours and secured a place on a third-level university course. Riaz and his wife spent their savings on his first year of third-level education but, although both are working, they could not afford to continue paying the required fees. His son had to drop out during his second year. Riaz believes his children's education and future is entirely dependent on being granted citizenship.

### ***Case Study 12: Sarah***

Sarah was granted residence in Ireland in 2002 on the basis of her parentage of an Irish-citizen child. Although married, she is effectively a single parent to her three children as her husband has never been granted a visa to join her in Ireland. Sarah has been in full-time employment in the health service since 2003 and has also been completing a third-level degree by night since 2006.

She applied for citizenship in mid-2007 and her application was acknowledged promptly. She heard nothing more until early 2009, when she was asked to provide more information and documents regarding her current activities in Ireland. She submitted the details of her employment and ongoing studies. Ten months later, Sarah received a letter informing her that her application had been processed and that the Minister had decided to defer making a decision on her application for 12 months. The letter stated that this was so the Minister "might be satisfied that [she] continue to be of good character".

Sarah was devastated when she received this letter but decided to "grin and bear" the situation rather than seek to challenge the Minister about his position. She simply did not want to "rock the boat" in case he refused the application. Sarah did not discuss the situation with any of her friends, many of whom applied for citizenship at the same time but have received no communication, as she didn't want to worry them.

As the months pass, Sarah is increasingly angry and upset about what she believes is a lack of transparency in the process. After 12 months, Sarah wrote a reminder letter about her application. That was almost six months ago. In all, Sarah has now been waiting almost four years for a decision.

### ***Case Study 13: Lee***

Lee moved to Ireland 16 years ago for his education. Members of his immediate and extended family were already living here and his parents were keen for him to receive his education in Ireland through English.

Lee was first registered as an international student but, after he completed his education, he had some difficulties obtaining a residence permit. He was unable to secure a work permit. Eventually, he was relieved to be granted a temporary Stamp 4 residence permit as he had been living in Ireland for more than 10 years. Although he now has residence, it is temporary and must be renewed every year.

Lee finds the policies and procedures confusing and frustrating. He understands his immigration history is unusual but feels no officials have a clear idea of where he fits in the system. He was told by GNIB to apply for long-term residence. However, the INIS refused this application as he already had a Stamp 4.

Lee applied for citizenship two years ago but his application was not accepted on the basis that he was calculated to be two months short of the required reckonable residence period. So, Lee said he applied again three months later. This time his application was rejected and he was simply informed he was not eligible.

With a temporary residence status, Lee is always concerned about what will happen if he is made redundant from work and whether his immigration status will be renewed. Delays, even very temporary, in renewing his residence permit cause concerns for his employer. Lee would love the opportunity to travel for life and work experience but, without a permanent status in Ireland, he has no right to return here.

Lee considers Ireland home as it is where he has grown up and all his friends are here. He has recently submitted his application a third time and is hoping that he will be successful.

#### ***Case Study 14: Patricia***

Patricia was granted residence in Ireland in 2000 as the parent of two Irish children. She separated from her husband when pregnant with her second baby and she is currently receiving one-parent family payments. Over the years, Patricia has worked part time and full time in various retail and Civil Service positions. She finds it difficult to work full-time with two young children and has found it impossible to find a permanent job.

Patricia applied for citizenship in 2006. She found the application process straightforward and submitted all the paperwork herself, including updates about any changes in her situation. However, she found the processing time difficult.

In late 2009, after three years, her application was rejected on the grounds that, as a lone parent, she is dependent on State funds. Patricia was extremely disappointed; she didn't realise it was discretionary and believes it is not reasonable to require a lone-parent to work full-time. She believes

there should have been some consideration of this and the efforts she had made to work. For Patricia and her children, Ireland is home but she wants to guarantee they can stay together. For now, she has not re-applied for citizenship and will not do so until she has found secure employment. She had hoped that having citizenship would make it easier to get work.

### ***Case Study 15: Zahraa***

Zahraa has been living in Ireland continuously for the past 12 years. She initially came for family reasons but, after separating from her partner, she decided to remain as her son, Rabah, was settled in school. With her mother already living with her in Ireland and no remaining family in her home country she obtained an employment permit in 2000, bought a home and decided to “settle down”.

However, the annual renewal of the employment permit was a nightmare and she had constant problems maintaining her residence stamps. Every year, her work permit was due for renewal at the beginning of August and it was never renewed until October or November.

In 2006, Zahraa applied for long-term residence but never received written acknowledgment. She understood that, at that time, it was taking several weeks to process applications. She finally got verbal confirmation that her application had been mislaid but was being processed. She was relieved when, 12 months later, it was finally granted.

Zahraa did not apply for citizenship until she had already received long-term residence. She could have applied for citizenship earlier but wanted to ensure there was no doubt about her eligibility to apply. Zahraa regrets this now, as some 44 months later, her application for citizenship is still undecided and the whole situation has been a huge source of personal stress for Zahraa over the past few years.

Zahraa was compelled to apply for citizenship for lots of reasons – her home is here and she has social ties – but her primary motivation was her son. She could not apply for citizenship on his behalf when he was minor, unless her own application had been processed. Without citizenship, even though Zahraa has worked and paid taxes here for years and Rabah has completed his primary and secondary education here, he cannot access third-level education unless Zahraa pays international student fees. Zahraa cannot afford to do this.

Now that he is 18, Rabah has submitted his own application for citizenship and hopes that it will be granted, although it could take years to receive a decision. Rabah completed the Leaving Certificate with honours last summer and, as he does not need to repeat, has decided to keep busy and sit A-Levels. If granted citizenship, he hopes to study medicine.



### ***Case Study 16: Paul***

Paul and his wife have been living in Ireland for nearly 10 years. They originally moved to Ireland from the US when he obtained a work permit in Ireland. After their son was born here, they applied for and, as parents of an Irish child, were granted a two-year residence permit under the IBC/05 scheme.

Although the residence permits granted were temporary, this still provided Paul and his wife greater flexibility as they were both allowed to work in Ireland without the need to apply for and renew work permits every year. Prior to this, Paul's wife also had a work permit but her employer did not apply for a renewal during her maternity leave. Paul was also never certain if his own permit was going to be renewed.

He believes there was little clarity about what documents were required for renewing his permits and feels the administration was dependent on who was dealing with the application. For example, on one occasion an official requested his degree transcript. However, another official insisted that only the original degree parchment would be accepted.

There was a huge amount of time and financial cost involved in the annual renewal process and Paul and his wife both wanted more independence from specific employers and security of immigration status to make longer-term plans for their family.

To date, they have been renting and were considering buying a house. However, they have had difficulties in securing a mortgage with very temporary residence status. Ultimately, they have been reluctant to invest due to concerns about the renewal of their status.

Although appreciative of the flexibility provided by their current residence permits in terms of employment options, Paul and his wife have continued to be frustrated by the lack of clarity in the immigration system and issues that have arisen during renewals. In 2007, they applied to renew their residence permits and also applied for long-term residence, as they had been legally residing in Ireland for more than five years. Whilst their residence permits were eventually renewed for a further three years, the process was not as easy as they had hoped. There was no policy in place to deal with IBC renewals until after their status had already lapsed for a short time. They were, however, refused the five-year long-term residence permit, as they were informed this scheme was only available for employment permit holders.

Paul is highly critical of this position and is concerned that reactive politics rather than well-thought-out rationale have informed immigration policies.

Immigration difficulties aside, Paul and his family are happy living in Ireland and are intending to apply for citizenship. He explains that, to date, they had

been focussing primarily on ensuring their residence status is maintained rather than spending more time on trying to figure out another type of application. However, after 10 years, temporary status is not a long-term option and they are anxious to remove any uncertainties for their children growing up, as well as to be confident in making a long-term housing commitment. They also feel it is important to be able to vote.

Paul has read up on the eligibility criteria for the application and is concerned about the lack of clarity and the fact that it seems to be entirely discretionary. In his view, applicants should be provided with clear and fair criteria, which apply equally and transparently to all. He is considering using a lawyer for these applications.

### ***Case Study 17: Chris***

Chris has been an Irish citizen since his application for naturalisation was granted in early 2010. Originally from South Africa, Chris and his wife moved to Ireland in 2001 for employment purposes.

Prior to moving to Ireland, they had attended road shows in South Africa and understood from the literature promoting Ireland that they were entitled to citizenship after five years. Believing conditions in South Africa were not ideal for raising a young family, they decided to emigrate and to make Ireland their new home.

On arrival, they liked Ireland, especially the people, and found there were many opportunities for those willing to work. In the following years, they worked hard and Chris built a successful business in Ireland, at one point employing 20 people. In April 2006, as soon as they were eligible, Chris and his wife applied for citizenship.

On the basis of the information that was provided to them at the time of applying, they understood that they would receive a decision in two or two-and-a-half years. However, this was not the case and the whole process was, and remains, a cause of huge frustration and stress to Chris and his wife.

Due to his immigration status, Chris was only eligible to compete for work in Ireland. When the economic situation began to decline, it would have made a massive difference to his business if he had been able to tender for contracts in the wider EU. Gradually, he had to let his employees go.

Chris contacted the Citizenship Division repeatedly to enquire about his application and when he might expect a decision. He is highly critical of the processing times and what, in his view, is the general lack of transparency in the entire immigration system.

In the end, it actually took 46 months for Chris and his wife's applications to

be processed. Although delighted to have been granted citizenship, Chris is angry that the decision came too late to save the business he had established or the jobs of his employees.

Chris is looking forward to voting and having a say in who governs and how taxes are spent. As he can now travel and work freely in the EU, he hopes to build on his foundations in Ireland and re-expand his business.

### ***Case Study 18: Jared***

In 2001, Jared was issued with a high-skill working visa and moved to Ireland from Malaysia. He has been living in Ireland for the past 10 years. He intends to settle permanently in Ireland, a country that has provided him with better living conditions, human rights freedoms and the opportunity to earn a decent living.

In 2008, he made separate applications for long-term residence and citizenship. After two years, his application for long-term residence was granted but he is concerned that it is not permanent.

He is devastated by the processing times and lack of certainty. He believes he is law-abiding and has contributed to the economic betterment of Ireland and continues to hope that his application for citizenship will be granted.

### ***Case Study 19: Selma***

Selma has been living in Ireland for seven years. She originally came to Ireland from Libya on a work permit but was later granted residence as the partner of an Irish citizen. This permit is for three years and allows her to work without a work permit. The letter granting her residence stated it was an “exceptional measure” but there was no information regarding her obligations or her entitlements in Ireland.

With a long-term Irish partner, Selma decided to apply for citizenship last year and submitted the application a few months ago. Before applying she looked for official information on Government websites. Whilst there is lots of information available, it was difficult to understand. The only support available was from voluntary bodies.

She found the application form was not really appropriate to her circumstances. She completed it as best she could and outlined her immigration and relationship history in a cover letter. She believes the average processing time of 25 months indicated on the INIS website is ridiculous and her Irish partner is equally shocked.

He went to the GNIB with her to get her new residence card and he feels most Irish citizens have no understanding of how migrants are treated or the pressures they are under trying to deal with the system.

Through her employment in Ireland, Selma financially supports her family back in Libya. For Selma, citizenship will not only give her a voice, but also remove the insecurity of temporary residence status, not just for her but for her family.

### ***Case Study 20: Marina***

Marina, originally from Bulgaria, is an Irish citizen and has been living in Ireland for 14 years with her husband and children. She first came to Ireland to join her husband who was working for a large international company. Whilst they both wanted to feel a sense of belonging to the country where they were making their lives, they primarily applied for citizenship to secure their residence in Ireland.

Bulgaria was not part of the EU when they applied for Irish citizenship and there was no provision for long-term residence at the time.

Although Marina's husband is a highly skilled engineer, before being granted citizenship he was always employed on a work permit, which was renewed annually. This was a highly stressful process for Marina's family. By coincidence, renewal always took place during the summer when her husband was required to take annual leave from his company. Whilst his employers were very efficient, three years in a row the Department of Enterprise misplaced their paperwork. The family had to re-book their holidays at short notice and stay longer in Ireland to deal with administration.

One year, Marina's husband's permit was issued just before they were due to depart. They had time to renew their GNIB cards but not enough time to obtain re-entry visas, which must be done separately. They went on holidays as planned and thought that it should not be problematic to apply for their re-entry visas whilst on holidays. However, to their horror, they were informed by the Irish Embassy that, while her husband's visa would be processed, the rest of the family would have to wait 12 months. Marina faxed a letter to the Department of Justice and, even though they could show their residence cards, they were then asked to provide every shred of evidence that they were already living in Ireland. As Marina and her family were on holidays, they had to arrange for friends in Ireland to get into their apartment to find all of their financial information, health insurance, utility bills and children's school records. It took an entire week of their holidays to sort it all out. Marina says this was just one example of how insecure they were and that it was after this they decided that they had to apply for citizenship.

For Marina and her husband, submitting the application and supporting documents was relatively straightforward. However, they found the processing times impossibly long. They found it extremely frustrating trying to establish where their applications were at in the process and if there was any specific

reason why it was taking so long. Marina contacted the three Irish referees named on their applications and has established that they were never contacted during the process.

In 2005, 26 months after applying, Marina and her husband were finally granted citizenship. For Marina, who previously did not have independent access to the labour market, it meant she had an immediate right to work and, at least initially, she associated the decision with this.

Marina felt she couldn't yet celebrate, as it was only then that they could apply for their children. Marina's eldest daughter was approaching her final years of secondary school and it was critical for her future access to university that her application for citizenship be processed before she left school. It took a further 18 months for their children's applications to be processed. When Marina's children's applications were granted, her family was jubilant. Over time, a sense of pride has emerged and citizenship has come to mean that they all belong.

### ***Case Study 21: Rahim***

Rahim moved to Ireland from Pakistan in 2002 for work purposes. Since his arrival, he has remained with the same employer. His wife, Malika, subsequently joined him in Ireland as his dependent and they are now the parents of two Irish children. Although she is the parent of two Irish children, Rahim's wife is not permitted to work in Ireland. Rahim is no longer required to have a work permit, as he was granted long-term residence in 2008.

In June 2007, Rahim applied for Irish citizenship. Shortly before this, both of his parents had passed away in Pakistan and, having lived in the same community in Ireland for five years and with the birth of his children, he felt he now had a greater connection to this country. Also, when he applied, his employment permit was subject to renewal every year and Rahim felt being granted citizenship would give his family more security.

Two years after he submitted his application for citizenship, Rahim was injured at work and, following surgery, he was unfit to return to work immediately. He sought permission to return to work at various times but medical opinion advised against it. Eventually in November 2010, he received medical clearance and returned to work on a part-time basis. He hopes that soon he will return to full-time work.

Just before returning to work, Rahim received notification that his application for citizenship was refused on the grounds that he is currently in receipt of disability benefit and is deemed a burden on the State. The decision informed him that there is no appeal against the decision. Rahim was deeply shocked by the decision and is seeking legal advice about the options available to him and his wife.

**Case Study 22: Ahmad**

Ahmad and his family applied for citizenship in January 2006, three years after they had been granted refugee status in Ireland. In April 2008, after they enquired about the current status of their application, they were informed by telephone that their applications were “under consideration in the Minister’s office”. In October 2008, having heard nothing further, they made more enquiries. They were informed that their applications were at an “advanced stage of processing” and would be “sent to the Minister for a decision in the coming months”.

In May 2009, Ahmad contacted the Minister’s office directly for information. In response, he received a letter confirming that their applications had been received in January 2006 and that applications are generally dealt with in chronological order as this was deemed to be the fairest to all applicants. The letter also outlined that additional resources had been allocated to the Citizenship Division of the Department of Justice to enable certain categories of applicant to be dealt with more expeditiously. These included refugees, spouses of citizens and minors. The letter explained that the average processing time from when an application is lodged until a decision is made was then 23 months. The letter said there was a limit to the reduction in processing time that could be achieved as applications for naturalisation must be processed in a way that preserves the necessary checks and balances to ensure that it is not undervalued and is only given to persons who genuinely satisfy the necessary qualifying criteria.

Ahmad accepted the general premise of this information but he still had no explanation why his family’s applications had not been decided after 41 months. He would have been very happy for his family’s application to be processed within the average processing times.

Not satisfied with the response, he instructed a solicitor and threatened High Court proceedings unless they received a substantive explanation for the delay. Ultimately, they were advised not to issue proceedings. Ahmad received another letter, again stating that the applications were at an advanced stage of processing.

In June 2010, Ahmad received a letter from the Department advising that it had just come to their attention that there was an issue regarding one of the documents he had submitted and requesting that he complete an affidavit. In July 2010, the applications were finally approved, some 54 months after they had been submitted. They received their naturalisation certificates two months later.



**MIGRANTS’  
EXPERIENCES OF  
APPLYING FOR  
RESIDENCE AND  
CITIZENSHIP  
IN IRELAND**





## MIGRANTS' EXPERIENCES OF APPLYING FOR RESIDENCE AND CITIZENSHIP IN IRELAND

On the basis of the information provided by all of the participants in this study, the chapter explores in more detail the experiences of individuals applying for citizenship in Ireland.

Overall, the information provides a snapshot of the profile of migrants who have applied for or intend to apply for some form of permanency in Ireland, be that long-term residence or citizenship. It also gives some sense of what motivates people to apply for 'permanency'. The key issues facing applicants during the process of applying for citizenship are also identified and analysed. Extracts from the case studies in chapter two and quotes from the interviewees, on which the case studies are based, are used throughout to highlight the actual experiences and views of those who participated in this study.

### **3.1. Profile of Participants and Outcome of Applications**

#### **3.1.1. Immigration and Residency Profile of Participants<sup>74</sup>**

As outlined in the introduction, 315 individuals from more than 60 countries took part in this study. The participants came from a broad range of backgrounds, both in terms of their country of origin and their immigration status on arrival in Ireland. The majority of participants in the study (189) arrived in the State as asylum seekers having fled persecution in their home country. Other participants came for economic and employment reasons (37) or study purposes (seven), whilst others came to join family members.

Whatever their original motivation for coming to Ireland, it is clear that, over time, circumstances have changed for them all. This is reflected by changes in their immigration status. At the time of participating in the study, the majority had been recognised as refugees (67) or had been granted humanitarian leave to remain (40). Many participants had established relationships and family life in this country, including with Irish citizens (82), EU citizens (10) or refugees (seven). This clearly demonstrates that migrants' lives are not static and that immigration systems must be flexible to respond appropriately to these changes.

In addition to changes in circumstances and immigration status, the majority of participants identified as feeling 'settled' in Ireland. Many of the participants had been living in Ireland for a significant period of time; 44 participants have lived in Ireland for more than 10 years and 90 participants have been living here for more than eight years. Some 166 participants had applied for citizenship and 26 had been granted citizenship at the time this study was undertaken. Of the 106 participants who had not applied, the vast majority were not yet eligible to apply and expressed their intention to apply as soon as they satisfied the residence requirements. Only two individuals expressed a definite intention not to apply.

<sup>74</sup> Appendix A provides tables on country of origin, immigration status on arrival, current immigration status, length of time living in Ireland and so on

### **3.1.2. Outcomes of Applications**

Of the 166 participants who had applied for citizenship, the vast majority (125) were still waiting for a decision at the time this study was undertaken. A total of 26 participants had received a positive decision, whereas 15 had been refused. See Appendix A for a more detailed breakdown.

Of the 41 applications that had been determined, of those that provided the details, processing times varied considerably, ranging from the isolated example of five months to an extraordinary 54-month period. Compared with the officially stated current average processing time of 25 months, the average processing time of applications made by respondents in this study was 28.2 months.

Of the 15 participants whose applications for citizenship had been refused, five had not been provided with any reasons for the decision. In other cases, social welfare dependence (four) and traffic/parking violations (fines, no convictions) (three) were provided as the reasons for refusing the application. In two refugee applications, the applicants were refused 36 months after applying on the grounds that they did not satisfy the Ministerial policy preference that refugees should have resided for three years in Ireland after the granting of refugee status before applying for citizenship. This was a change in policy after they had first submitted their applications. One participant provided no information regarding any reason for the refusal of their application.

This study only examined the most recent application for citizenship submitted by participants. However, 28 participants in the survey noted that this was not the first application they had submitted and seven participants said they had applied and been refused on three previous occasions. Although it would appear that a few of these applications were either invalid (use of Tippex – one application) or ineligible (residence requirements not met/application submitted too early – five applications), the rest were either refused due to the Ministerial change of policy identified above (three applications), traffic violations (two applications), public order offence (one application) or social welfare dependence (one application). The rest of the applications were refused without the provision of any reasons. One participant outlined that they had been refused three times, twice without any reason and the third time for accessing social welfare benefits after losing a job. One participant said that they had been refused due to the change in Ministerial policy regarding refugee residence requirements and has been waiting for a decision for four years on a second application. Another participant stated that they had been refused three times and have not been provided with a reason for the refusal on any occasion.

It would appear that the current average processing time of 25 months, whilst perhaps not deliberately misleading, does not reflect the experience of very many of the applicants in this study. It was identified above that, of the participants who had received decisions, the processing times varied considerably from

periods of five to 54 months, with an average processing time of 28.2 months. However, 12 of those who received decisions were waiting between 36 and 49 months for the decision, a period far in excess of the average processing time. The majority of the 125 participants whose applications remained pending had submitted applications within 12 months of taking part in the study. It is therefore unknown how their applications will ultimately fare. However, 20 participants who were still waiting for decisions noted that their applications were now pending for periods of more than three years, with four participants still waiting for decisions after four and five years. The participant waiting five years described the situation as a “life in limbo”. The experience of participants in the survey was also mirrored by those who were interviewed.

The processing times of applications and reasons for refusing applications are considered below at section 3.2.2.

### **3.2. Motivation for Applying and Experience of the Process**

#### **3.2.1. Reasons for Applying for Citizenship**

Most participants in this study identified several reasons why they wished to apply for citizenship in Ireland. These are discussed below.

#### **Security of Immigration Status**

An almost universal reason for applying for citizenship identified by those interviewed or completing questionnaires was to counter the lack of security they felt arising from only having temporary residence status in Ireland from year to year over long periods of time.

*“From the outset, I wanted it to be permanent. Long-term residence was a bridge. But it doesn’t really feel like home if you don’t have peace of mind, if you cannot enter and remain freely and cannot participate fully.” (Monica, CS9)*

*“I applied for citizenship for security but, on reflection, this diminishes citizenship by linking it to immigration concerns and worries. Instead, there should be a permanent residence status linked to immigration and residence history. I would have welcomed a permanent status. But at the time, there was not even long-term residence.” (Marina, CS20)*

This was a particular consideration for those granted refugee status, many of whom expressed gratitude for being granted safety and protection but expressed a desire to move on with their lives and a need to live without the prospect of revocation hanging over them for years. They stated that there was absolutely no prospect of them returning to their home country, so it was important for them to have citizenship. This was deemed to be a very natural process after receiving refugee status.

Pierre (CS6) said that making travel plans was almost impossible as his travel document was only valid for short periods of time. Even if it was recognised, by the time a visa was issued by the country he wanted to go to, his residence card

and travel document might become due for renewal again within a few weeks. Pierre also found it embarrassing to have to explain to immigration officials everywhere why he wanted to travel and why he had no passport.

However, for non-refugees, security of status was also a huge issue. Participants outlined at length the difficulties they had experienced since their arrival in Ireland in maintaining a legal residence status and in dealing with renewals.

*“It was for security of presence. Prior to that we had invested a lot, including buying a house, bringing our kids here. Short-term stamps did not assure anyone, including employers, that you would be renewed and there was constant fear of the possibility that you would be asked to leave.”(Marina, CS20)*

*“First given a stamp for a year, then two, then five. I want to remain. Temporary status – even five years – you don’t feel permanent. I want to have a feeling of settlement.” (Sarah, CS12)*

*“We’re happy here, our kids are happy here. This is where the kids will grow up; you want to live where your kids are. There is no permanent residence. We feel half way in and want to remove any uncertainty.” (Paul, CS16)*

The changing policies regarding employment permits and uncertainty whether permits would be renewed in the current economic climate was a factor referred to by several participants.

*“Renewal of my permit was entirely dependent on my employer. Every year they delayed the process, they would hum about renewing at all and then I was unsure if it would be granted and I had problems with GNIB. I was so relieved to get a Stamp 4.” (Monica, CS9)*

Practical reasons were also mentioned by refugees and others as a reason for applying for citizenship. Refugees identified many difficulties by not having a passport for travelling. These ranged from being unable to obtain visas for other countries due to the failure of other countries to accept their travel document, to feeling humiliated when travelling due to their treatment by immigration officers at points of entry.

Another key concern identified by refugees was the difficulty visiting family members, especially adult children, who they were unable to secure visas for in Ireland and were unable to visit in their country of origin or easily meet in a third country.

Other participants indicated they did not want to have to apply for re-entry visas every time they left the country. Also, they did not want the inconvenience of having to re-apply for their residence permit every year or two as this could be difficult, time consuming and, with ever-increasing employment permit fees, very expensive.

*“I am always uncertain if our status is going to be renewed, and there is the cost and time involved. Our passports expired in between renewals and we had to pay fees again when we got our new passports stamped.” (Paul, CS16)*

It is significant to note that the vast majority of individuals who attended the ICI outreach sessions and participated in this study were non-EU citizens. Although difficult to draw firm conclusions, it is possible to speculate that this is because access to a secure residence status and/or citizenship is of more pressing concern to migrants who do not enjoy freedom of movement geographically or economically within the labour market, if subject to employment permit conditions. This conclusion is supported by the Central Statistics Office (CSO) population and emigration estimates that the vast majority of current outward migration is amongst Irish and other EU citizens.<sup>75</sup> Of the estimated, 65,300 people who emigrated in the past year, Irish nationals accounted for 27,700 and British/other EU nationals accounted for 29,500.

### **Increased Opportunities**

For many participants, it was felt that becoming an Irish citizen would give them more opportunities to contribute to Ireland. They would be less restricted in the kind of work they could do and they could also become self-employed if they wished. A couple of participants had already invested in businesses in Ireland but, without citizenship, were restricted in their desire to expand and compete for tenders within the wider EU.

*“Citizenship gave us the recognition that we are not just first-class taxpayers and second-class people, but that we have a vote and voice now on deciding who will govern us and how our taxes will be spent. It allows us to travel and work in Northern Ireland, the UK and the EU, possibly expand our business sometime in the future, while allowing us to build on our foundations in Ireland. Citizenship allows us to be full members of society again.” (Chris, CS17)*

Dependent family members of employment permit holders, some of whom were also parents of Irish children, said that they wanted to be able to work to assist in financially supporting their families.

*“For me personally, it also meant the possibility of an unconditional right to work and not depend on my husband’s employment status. It also crossed our minds that our children may want to go to university and citizenship would mean they could go just like any other Irish child. For kids who come with their parents, they really are Irish already. It could deny them their future.” (Marina, CS20)*

A few participants outlined that they were waiting to be ‘permanent’ before they invested further in property and a ‘family home’.

<sup>75</sup> Population and Migration Estimates (CSO, 2010)

## A Sense of Belonging and Connection to Ireland

For the vast majority of people who completed questionnaires, a further major reason they applied for citizenship was to feel like they ‘belonged’ in Ireland. They wished to be able to be fully participate in Irish society, in particular by having the right to vote.

*“For me, I had a right to work. I was pushing 40 and I associated it 100 per cent with this. For my husband, it was a relief that he would not have to suffer my outbursts anymore! No really, it was just relief all round. In time, citizenship came to mean what it should have at the beginning: we belong. Now we have the experience of exporting citizenship – I am listed as an Irish delegate when I attend meetings for my employer overseas – it is so pleasant and honourable. And of course, we follow politics and are actively involved. We feel deeply affected by the current economic crisis and affairs, so voting is huge.” (Marina, CS20)*

Most people said they had lived here for so long that they felt integrated and that obtaining citizenship would help to cement that for them and their families. For many people, the importance of being part of a community was emphasised and the majority of the respondents were very positive about their own sense of being part of their local community.

Many respondents also had Irish spouses or partners and Irish citizen children and identified their sense of connection to Ireland as a result. They wanted to become Irish citizens so the whole family would be Irish. There were practical considerations associated with this also, identifying difficulties at border controls with family members queuing in different lanes and often the wrong lane if accompanying children of a different nationality. A few respondents also identified difficulties for their non-Irish children participating at school and sporting events outside of Ireland, as compared with Irish siblings.

Participants expressed their love of the Irish people and enjoyment living in Ireland, which they identified as safe and stable. Most people just wanted to be treated ‘the same’ as Irish citizens and to live permanently in the country that they and their children already view as ‘home’.

*“I was a law-abiding resident. I have no family at home now. Irish people are very friendly. I have social ties. I bought my home and settled down. All of these reasons compelled me. But my son was my primary motivation. He was six when he came and is now 18. I find it a nice place to live but he absolutely loves it. He knows nowhere else. We’ve never been back. So Ireland is definitely his first love and only home.” (Zahraa, CS15)*

*“We never involved our kids in the application. They already felt Irish, believed they were Irish. Just needed someone to confirm it.” (Marina, CS20)*

### 3.2.2. Issues Arising from the Naturalisation Process

Despite the very different backgrounds of the participants in this study, broadly similar concerns appear to arise for them all. Most participants identified, in no particular order of priority, the following issues:

#### Customer Service, Processing Times and Fees

A universal concern expressed by survey participants and interviewees related to what they perceive to be a general lack of customer service during the processing of applications.

*“The experience was terrible... I can joke now but it was traumatic at the time. I phoned one day and was actually placed on hold for four hours. If it wasn’t for our NGO solicitor we wouldn’t have gotten anywhere.” (Evan, CS10)*

Participants acknowledged that their applications and any correspondence submitted were generally acknowledged very quickly. However, they expressed frustration at what they referred to as ‘machine-automated’ letters and the failure to receive any substantive replies to enquiries regarding the current status of their application. This was especially the case if their application was pending for long periods of time and they were trying to establish if there was a problem with any specific aspect of their application or if the delay was with any particular department when undertaking background checks.

Participants were also critical of the INIS Helpline, which they found difficult to get through to at all. If they did get through, the staff, although usually pleasant, were generally unable to assist them with their enquiry.

*“The lack of information and the wait times are atrocious. The Helpline is not a helpline. The lack of customer service is not just a question of a lack of resources; I feel it is symptomatic of the overall lack of policy and vision about migration in Ireland.” (Chris, CS17)*

*“The helpline doesn’t work at all, impossible to get through. All machine-generated letters and in totally defensive mode. Is it that they don’t know or are they not allowed to give information? I often wonder if the Department does exist. Is it just virtual?” (Evan, CS10)*

Participants were also highly critical of the processing times of applications, including those who had received positive decisions within the stated average processing time of 25 months.

*“The processing time is a nightmare.” (Pierre, CS6)*

*“It is an impossibly long waiting time. My life felt on hold during this time. It meant so many things. Security in Ireland. Access to employment. Access to rights. Endorsement of all the efforts you have made to learn the language and to integrate.” (Marina, CS20)*



A number of participants questioned why applications cannot be processed more expeditiously. One participant observed that all of the information obtained during the background checks is required to be provided by the relevant departments within a number of weeks under Freedom of Information or Data Protection applications.

A few participants raised an issue in relation to the fees payable if the application is granted. In particular, they referred to the increase in fees that came into effect in 2008. In their view, it was unfair to impose the higher fee on applicants who had already submitted applications. One interviewee, Chris, referring to media coverage reporting that officials had been directed not to finalise applications until the higher level fees came in,<sup>76</sup> expressed his personal view that this was “deeply cynical” and a “kick in the face to taxpayers who have been waiting for years”. Further, he expressed the view that the fee was not reflected by appropriate levels of customer service.

*“[Former Minister for Justice and Law Reform Deputy Dermot] Ahern argues in the Dáil that the increase of the fee to €950 is in line with that charged by the UK and EU governments. He does not mention that the UK system is efficient and delivers the yes or no within a specified timeframe of months, not years.” (Chris, CS17)*

Having regard to the information provided in chapter one, the level of fees payable in Ireland is considerably higher than in most other countries and the average processing time is also considerably longer. Whilst the fees payable in the UK are almost on par, at approximately €913, the average processing time is approximately six months.

### **Lack of Transparency in Processing Applications and Decision Making**

In addition to processing times, the vast majority of both survey participants and interviewees expressed the view that there is a lack of transparency in the application process, especially the criteria for actually being granted or refused citizenship. Several stated they relied heavily on guidance and assistance from NGOs for information before and during process.

*“Another major issue is looking for official information from Government, it’s very opaque. It’s left to voluntary bodies to explain it to you. To get someone on the telephone – it’s a nightmare to get through – if you do, nice, ordinary, decent person but they can’t actually tell you anything. You’re just stone-walled.” (Selma, CS19).*

It was felt that this lack of transparency was reflected in the very different processing times of applications, as well as in the lack of information provided to applicants regarding ‘good character requirements’ and the level of discretion afforded to the Minister whether to grant or refuse applications. Several participants said that applicants should know the criteria by which their

<sup>76</sup> Referred to in Joyce, C., *Annual Policy Report on Migration and Asylum 2008: Ireland* (EMN, 2009)

applications are judged and should be entitled to a positive decision if they meet the criteria. Some also observed that decisions lack proportionality and that there was little regard to an applicant's contribution during the period of residence in Ireland, as compared with the nature of any alleged 'adverse attention'. It was felt that there should be some consideration to the current economic circumstances and that an applicant should not be penalised for temporarily claiming a social benefit they are entitled to receive if they have been made redundant after five or six years in full employment.

*"My friend applied for citizenship. After two years waiting for a decision, he was made redundant from his job. The Citizenship Division told him that he met the criteria but they were deferring his application until he gets a job. He's an architect. So it's a catch-22." (Judith, CS7)*

*"I am living in the dark about what's happening next. I was sick for a while and did not claim social welfare benefits despite my entitlements as I was fearful it would undermine my application... It is the uncertainty and lack of transparency. If refused or accepted, at least then I would be able to make plans." (Zahraa, CS15)*

Concerns regarding the lack of transparency in the processing of applications were also highlighted by Pierre and Sarah, two of the interviewees in the study. Both had applied for citizenship and, after a couple of years waiting, received letters informing them that their applications had been processed and that the Minister had decided to defer taking a decision on their application for a further period of 12 months. They both felt that this was extremely unfair, as was the fact that they felt there was little they could do challenge it. Judith (CS7) also expressed similar concerns.

*"I've been in bits about it. I didn't take advice, just grin and bear it. Is it really the Minister or just the person that handles it? Is it bad luck? Is it just sheer luck to get it? What is 'good character'? What are the criteria? I'm in the dark, there is no transparency at all. What am I supposed to do? I don't want to rock the boat." (Sarah, CS12)*

*"I've wanted to complain but what is kept on record? Will it be held against me? Brings me back to wanting to vote. Can't compel anyone to listen to you – no local TD cares, they have no incentive as you don't have a vote." (Judith, CS7)*

In response to a parliamentary question, the former Minister for Justice, Mr Dermot Ahern, TD, stated that there was no policy of deferring taking a decision on applications but that, in the rare instance when this has happened, it has been done to provide the applicant with an opportunity to fulfil the necessary eligibility criteria.<sup>77</sup> However, in the case of Sarah (CS12), the letter she received clearly stated that the deferral was so the Minister "might be satisfied that [she] continue to be of good character". This implies that she had met the

<sup>77</sup> Parliamentary question and reply is available on:

[http://www.jcfj.ie/pqs/index.php?option=com\\_sobiz2&sobizTask=sobizDetails&catid=476&sobizId=2527&Itemid=27](http://www.jcfj.ie/pqs/index.php?option=com_sobiz2&sobizTask=sobizDetails&catid=476&sobizId=2527&Itemid=27)

eligibility criteria but provides no explanation as to why a decision would not be taken immediately.

Participants in this study are not alone in their views regarding the lack of transparency. External commentators have also said that there is a need for more information in the public domain. They observed that the direct link between the existence of absolute discretion and the opacity in relation to citizenship and naturalisation policies currently stymies a truly informed analysis and debate of this area.<sup>78</sup>

### **Issues for Children of Applicants: Access to Education**

A key issue raised by a number of survey participants and interviewees related to the fact that there is no possibility of parents making an application on behalf of their minor children, even if their children have been lawfully residing in the country with them throughout the required reckonable residence period. This gives rise to considerable fears that, notwithstanding their own tax contributions through employment over many years, their children will not be able to naturalise prior to leaving secondary school. Consequently, their children will not be able to access third-level education except as an ‘international student’. The very high fees that are required as an ‘international student’ effectively prevents some of these students from receiving a third-level education. These concerns have been realised by two of the interviewees, Riaz (CS11) and Zahraa (CS15).

*“My son will grow up and so will his needs. There are no guidelines for him. No home student status like the UK. It is very unfair for him and he is confused. Realistically he is Irish already. All he has learnt has been here. He wasn’t aware of the harsh reality of discrimination. He always felt part of the community. Unless and until he can attend third level, there is a barrier.” (Zahraa, CS15)*

The fact that children are a strong motivating factor in applying for citizenship was also highlighted by Marina.

*“It also crossed our minds that our children may want to go to university and citizenship would mean they could go just like any other Irish child. For kids who come with their parents, they really are Irish already. It could deny them their future.” (Marina, CS20)*

### **Lack of Celebration**

It was outlined in chapter one that one of the requirements for being granted citizenship is to swear an oath of allegiance and loyalty to the State. None of the participants in this study raised any issue with this requirement. However, a couple of interviewees did refer to what they identified as a lack of any real celebration or official welcome when receiving the decision letter or when attending the court to swear the oath. One interviewee indicated that the district court judge made an effort. However, in their view, it was nonetheless inappropriate to slot this important event in between a criminal offence hearing or family law matter.

<sup>78</sup> Handoll, J., *Country Report: Ireland*, EUDO Citizenship Observatory, (2010) at p.19

*“It was so impersonal and really shocking. There was no sense that the State realises how momentous it is for someone. There was no welcome or congratulations. We were processed at the same time as petty criminals. There should be a separate court, photographs and a tea reception. But we were treated like we were paying a fine! I spoke to others there that day who were very offended and insulted. There was no Irish language, several of us had actually learned the cúpla focal.” (Mary, CS8)*

### **3.2.3. Impact of the Application Process and Decision on Applicants**

Respondents who had been granted citizenship said they felt it had given them a sense of “permanence”; it made them “happy to be enjoying all the rights of being Irish”.

*“For me, I had a right to work. I was pushing 40 and I associated it 100 per cent with this. For my husband, it was a relief that he would not have to suffer my outbursts anymore! No really, it was just relief all round. In time, citizenship came to mean what it should have at the beginning: we belong. Now we have the experience of exporting citizenship – I am listed as an Irish delegate when I attend meetings for my employer overseas – it is so pleasant and honourable. And of course, we follow politics and are actively involved. We feel deeply affected by the current economic crisis and affairs, so voting is huge.” (Marina, CS20)*

Those who had been refused, talked about feeling “excluded, disappointed, depressed, and devastated”. One person said no reasons had been given for the refusal and that they felt “ashamed”.

*“I had great hopes and expectations. The decision killed me. It seemed they tried so hard to find something to refuse me. I had tried so hard. To say I was not of ‘good character’, what did this say about me? What could I tell my wife? I want to be someone, this process made me feel like nobody. I wanted to feel welcome, not tolerated. I wanted to feel acceptance that this is my home and country now.” (Pierre, CS6)*

Participants whose applications were still pending all said that a positive decision would make them very happy and feel secure, and that it would enhance their lives in Ireland. It would give them a sense of “belonging”. For many it would confirm that they could be ‘useful’ for the country and would help them to contribute even more than they had already done.

*“If granted, I will feel a sense of acceptance and ability to get more involved. I have an Irish child whose future is bright here. I want to feel a part of that. I want to make a commitment here. All the activities I’ve done – my work, studies in a course where skills are needed – were all motivated by a desire to contribute.” (Sarah, CS12)*

### **3.3. Factors the Irish Government Should Consider When Deciding Applications for Citizenship**

For most people, the important factors appeared to be the length of time in the country; an ability to speak the language; a contribution to the State with regard to employment records, as well as an involvement in community and voluntary activities; and the character/lack of criminal record of the person applying.

*“Not every applicant should be measured by the same criteria. Some flee persecution and are stateless and need to be protected. Others come for work and contribute and this should be acknowledged. If you aren’t allowed to work, this should not be held against you.” (Marina, CS20)*

*“It’s the responsibility of the person to be law abiding and to try their best. But the Government has a duty towards us. The prime years of my life have been spent in Ireland and I’m trying my best. I come from a very different set up, a third-world country. But I adapted and I don’t complain. It’s not an easy task for an immigrant to come and give their life. People who have really contributed are suffering.” (Zahraa, CS15)*

A common feature of the responses to this question was the mention of the current economic downturn and how that affected people’s employment. It was mentioned several times that a person’s application should not be affected if they became unemployed as a result of the downturn and have to access social welfare, especially for short periods. Instead, previous employment history should be considered. Many people also mentioned how difficult it was to find alternative employment in this economic climate and that this should be taken into consideration.

The difficulties facing single parents in accessing full-time employment were also raised. It was mentioned that the Irish Government should take this into account when deciding on applications from single parents who are in receipt of the one-parent family payment.

*“I’m a lone parent. It’s difficult to get full-time work and with looking after the kids. Sometimes my friends would mind them but it wasn’t easy.” (Patricia, CS14)*

A few respondents mentioned that the discretionary nature of the decision-making process made it extremely difficult for the applicant to assess whether or not they are eligible. Several respondents expressed the view that very minor offences, such as traffic infringements, should not be a reason for refusing people citizenship.

*“It’s all discretion. There is no clarity if you are eligible. The criteria should be clear and fair, apply equally and transparently. Evidence of long-term commitments and contribution. I think you should have good standing with the law; clearly violent crime should not be allowed. But there is no clarity. What about misdemeanours. Should you be stressed for years about a parking ticket?” (Paul, CS16)*

*“You read the information and the stuff that is required. But it’s what’s not in the information... the hidden and real requirements that may reject an application. If there are reasons that are used... it should be transparent. You may be disappointed but, if you know you don’t qualify, you don’t apply. It seems they are looking for contribution but... no weighting attached to voluntary activities.”* (Evan, CS10)

Almost all respondents commented on the length of time it takes to process applications for citizenship and that this needs to be reviewed.

*“Legally there is no time limit or obligation on the Minister to do anything but the process is supposed to be fair, reasonable and open. Waiting for 46 months is clearly not fair or reasonable, not to mention open for investigation.”*(Chris, CS17)

The point was also made by several people that, because of the long wait in getting a decision, applicants may lose their jobs, thus jeopardising their chances of obtaining citizenship. This is particularly true in the current economic climate, as it is very difficult for people to find alternative employment if they are made redundant. It is especially harsh for applicants with a long work history, who may lose their job a couple of years after submitting their application for citizenship, and who access unemployment or other benefits temporarily for very short periods.

*“We are told each application is considered individually. I don’t think that’s true. There doesn’t appear to be adequate consideration of some cases. And the sheer length of time! None of us are perfect but, considering the financial recession, if they are jobless now, it is not their fault. It should not just be a tick-box exercise.”*(Zahraa, CS15)

Ultimately, applicants expressed a desire for a clear, transparent and fair application procedure for citizenship as well as the broader immigration system.

*“To be honest, I would like to apply but am utterly confused about eligibility to apply. Do I qualify? I look at the information provided but it is not clear. It’s nerve wracking in the current climate... Don’t know if there will be a further change of policy on a whim or something else completely arbitrary. I am happy to follow the process, whatever the process is. Could someone please tell me what that process is?”* (Judith, CS7)

*“A draft immigration bill has been in the making since 2005, with very little progress. I downloaded a copy and tried to read it, but it was not an easy task. I would consider myself fluent in English but still battled to read it, never mind understand it. The average Irish person would have the same trouble and any immigrant with poor English would struggle even more. How bitter the irony that those who would be the most affected by it, would be the last to understand it! Any law, in any country, that is supposed to be obeyed by the ordinary people, should at least be understood by the ordinary person. Immigration laws and regulations should be the same.”*(Chris, CS17)

### ***3.4 Conclusions***

Migrants' motivations for applying for citizenship are many and varied. However, a desire for security of status/permanency and to formalise a sense of belonging in Ireland were two strong factors. The experiences of the participants in this study illustrate the impact of the lack of clear rules on migrants' daily lives, their futures and even those of their children. Those impacts could be stress and anxiety, the inability to buy a house because financial institutions would not provide a mortgage to someone with a temporary residence status or the inability of a child to undertake third-level education, despite performing well at school, because educational institutions would charge international or EU student fees. The happiness a positive decision brings – even after a long, stressful wait for a decision – and the devastation and disillusionment a negative decision can bring are also apparent.

# CONCLUSIONS AND RECOMMENDATIONS FOR REFORM







## CONCLUSIONS AND RECOMMENDATIONS FOR REFORM

While there is evidence that many EEA nationals are returning to their country of origin or deciding not to choose Ireland as a country of destination in the first place, many migrants living in Ireland are non-EEA nationals who do not enjoy the same freedom of movement. This report demonstrates that many migrants have invested considerable energy in establishing a life for themselves and their families in Ireland. However, despite a sense of belonging and connection to the country, they face uncertainty and are increasingly concerned about the security of their immigration status in Ireland. The evidence overwhelmingly shows that, rather than leaving the State, many are doing all in their power to remain in Ireland, to remain in employment and to continue to choose Ireland as their home.

The ICI believes that the information in this report demonstrates that comprehensive review and reform of the existing legislative provisions and administrative procedures governing access to long-term residence and citizenship is required. Currently, most lawfully resident migrants are not eligible to apply for secure residence status. In the context of naturalisation applications, decisions refusing citizenship in many circumstances are extremely disproportionate having regard to applicants' length of residence, work history and other connections to the country. Indeed, in light of the relatively trivial reasons given for refusing citizenship in some cases, it could be inferred that the process is being used as a tool to exclude.

The ICI also believes that if the Irish Government is genuinely committed to achieving social cohesion, as set out in the recently published programme for Government, then, as a general guiding principle, immigration and citizenship laws and policies should be constructed within a human rights framework and developed in accordance with the core principles of respect for the rule of law, dignity, equality and proportionality.

Having regard to all of the information contained in this document and, in particular, the experiences of ICI service users and all the participants in this report, the ICI has the following specific recommendations to make:

***Permanent residence should be available as a right on fulfilment of reasonable eligibility criteria. This status should not be limited to employment permit holders.***

Long-term residence is currently only available to employment permit holders and is granted at the discretion of the Minister for Justice. If approved, the status granted remains tenuous, as it is not permanent and may be revoked. Furthermore, if granted, there is little clarity regarding rights and entitlements (for example, to leave the State for particular periods of time) and the status confers no rights on immediate family members (such as spouse/partner or dependent

children) already living in the State to work or access education. This can have a considerable negative impact on the ability of migrants and their family members to make plans and participate equally in society. Permanent residence status should not only be available to employment permit holders but should be extended to other categories of legal residents, including refugees, humanitarian/exceptional leave to remain, business permit holders and family members of Irish citizens and migrant workers.

***The Immigration, Residence and Protection Bill should be significantly amended to provide for a right of permanent residence with a clear set of core rights and entitlements on a par with those of citizens.***

The ICI recommends that the provisions of the draft Immigration Residence and Protection Bill 2010 should be significantly amended to provide for a right of permanent residence with a clear set of core rights and entitlements on a par with those of citizens.<sup>79</sup> If competency in English is legislated for as a requirement for long-term residency or citizenship, the Government has an obligation to allocate adequate resources and to ensure there are appropriate and sufficient courses available to allow migrants with limited language skills the opportunity to learn.<sup>80</sup> In accordance with the principle of equality, there should be exemptions for particular classes of applicants on grounds of age, disability or serious ill-health. The current draft eligibility criteria requiring applicants for long-term residence to demonstrate that they have “made reasonable efforts to integrate into Irish society” are too vague and subjective and should be deleted.

***The Government should review the current policy to register dependent children of employment permit holders as international students at age 16 and instead introduce a more appropriate form of status for these children.***

Prior to naturalisation, the ICI recommends that appropriate immigration status should be given to migrants’ dependent family members that appropriately reflects the primary purpose of their being in the State. Registering children as international students does not reflect their primary purpose for being in the State. Unless they are eligible to apply for citizenship prior to age 23, any time registered on this basis is not reckonable towards their own application for naturalisation.

***Migrants should have a right to naturalisation on fulfilment of the eligibility criteria.***

The ICI believes that all settled legal residents in Ireland should be supported to participate equally in social and democratic life and to become citizens, if they so

<sup>79</sup> The Immigration, Residence and Protection Bill – a critical overview (ICI, 2010); Analysis of the Immigration, Residence and Protection Bill 2008 (as initiated) and Suggested Amendments (ICI, 2008)

<sup>80</sup> For a comprehensive analysis of language programmes, see Healy, C. *On Speaking Terms: Introductory and Language Programmes for Migrants in Ireland* (ICI, 2007)

wish. Naturalisation is currently granted at the absolute discretion of the Minister for Justice. This means that an individual who fulfils all of the necessary legal requirements, including the ‘good character test’, may still have his/her application refused. In accordance with the rule of law, this should be amended.

***Migrant parents should be able to include their minor children who satisfy the residence criteria in their own application for citizenship.***

The ICI also recommends that parents should be able to include their minor children, who satisfy the residence criteria in their own applications for citizenship. In addition to alleviating some of the difficulties that migrants experience by having to apply separately for their children, this could also have beneficial resource implications for the Department of Justice processing applications.

***The ‘good character’ requirements for both permanent residence and citizenship should be defined in legislation and decisions should be proportionate.***

The ICI believes that, in accordance with both international best practice and the principle of the rule of law, there should be a clear statutory definition of the term ‘good character’ for both ‘long-term residence’ and citizenship applications.

Currently, ‘good character’ requirements are not defined. The application of this requirement in the naturalisation process gives rise to uncertainty and concerns regarding transparency and proportionality in decision-making on the part of applicants and their legal representatives. Minor road traffic matters resulting in nominal fines should not be taken into account when assessing good character requirements.

The ICI recommends that, in line with the tests in other jurisdictions outlined in this report, good character tests should be fulfilled by applicants except in circumstances where individuals have been charged and convicted of a serious criminal offence or in circumstances where imperative grounds of public security exist that mean an individual should not be treated as possessing good character. In situations where a resident has been convicted of criminal offences, the legislation should set out graded waiting periods as to when a permanent resident will subsequently be deemed eligible to apply. This will ensure that no permanent resident will be excluded altogether from the possibility of applying for naturalisation and is in keeping with international best practice.<sup>81</sup>

The current statutory eligibility criteria make no reference to the expected financial means of applicants and any policies in this respect should be published. The ICI believes that the granting of citizenship should not be dependant on the wealth of applicants. As is currently the case for refugees, there

<sup>81</sup> Article 6(4) European Convention on Nationality 1997

should be further exemptions from any financial eligibility criteria, including single parents, victims of domestic violence, persons with disabilities and retired migrant workers.

***Reasons should be provided to migrants whose applications for citizenship or permanent residence are refused. An independent review mechanism should be established to allow migrants to appeal negative decisions. The remit of the Ombudsman should include immigration and citizenship decisions.***

The principle of the rule of law requires that reasons should be provided for decisions and there should be appropriate review mechanisms of the exercise of executive power, including access to the courts.

Currently, the Minister for Justice is not obliged to provide reasons for decisions to refuse applications. Also, there is no right to appeal against decisions to refuse to grant either long-term residence or citizenship, including where negative findings have been made in respect of an applicant's character. Decision-making lacks transparency, accountability and proportionality.

In line with international best practice, the ICI recommends that applicants should be entitled to be given reasons in writing for the refusal of long-term residence and naturalisation applications<sup>82</sup> and decisions should be subject to a statutory right of appeal to an independent appeal body, as well as judicial review.<sup>83</sup> Currently excluded, the remit of the Ombudsman should also be extended to include residence and citizenship decisions.

***The fees for permanent residence and naturalisation applications should be reduced to a reasonable level so as not to constitute an obstacle for applicants.***

The current fee for long-term residence is €500 and for naturalisation is €950, unless an exemption applies. The findings of this report demonstrate that these are extraordinarily high fees, especially when considered in the context of customer service and average processing times in this country compared with other countries. The level of fees is not in keeping with international best practice as provided by the European Convention on Nationality, which specifically requires fees to be set at a 'reasonable level' so as not to constitute an obstacle for applicants.<sup>84</sup>

The ICI also notes that, currently, the required fees are applied very rigidly and, apart from refugees and widows of Irish citizens, no allowance is made for other categories of individuals who may have special circumstances (for example, individuals with disability, single-income families or single parents). The current level of fees has the potential to cause financial hardship and act as a barrier to even applying.

<sup>82</sup> Article 11 European Convention on Nationality 1997

<sup>83</sup> Article 12 European Convention on Nationality 1997

<sup>84</sup> Article 13 European Convention on Nationality 1997

***The Government should amend and consolidate the Irish Nationality and Citizenship Acts 1956-2004.***

The Irish Nationality and Citizenship Act 1956 has been the subject of numerous amendments and is now a very unwieldy piece of legislation. To give effect to the ICI recommendations regarding citizenship applications outlined above, the existing legislation requires further amendments. The ICI recommends that it is amended and believes there would be merit to consolidating the existing legislation.

***Applications for permanent residence and citizenship should be processed fairly within a reasonable period of time.***

This report shows that, although similar background checks are undertaken in other countries when processing applications, average processing times in Ireland are considerably out of line with those in other jurisdictions. Many applicants experience waiting periods of between three to five years in citizenship applications. There should be no deferral of decision making on applications that meet the relevant criteria.

***There should be an immediate review of existing administrative procedures to improve customer service and processing times.***

Little is known about how applications are actually processed. There should be an immediate review of the existing computerised case management system, AISIP, and other administrative procedures to identify exactly where delays are occurring with a view to substantially enhancing customer service and processing applications within a reasonable time.

***The Department of Justice, Equality and Defence should publish comprehensive disaggregated data, on an annual basis, of both residence and citizenship applications.***

This would assist both evidence-based policy making and the monitoring and evaluation of customer-service standards.

***The Community and Voluntary Sector should be resourced to provide services to migrants as immigration and citizenship law is a specialised area and can be very complex.***

In a context where applications that can be made are granted on a discretionary basis and in the absence of clear and comprehensive information provided by the state to the public, it can be very difficult for migrants to self-represent during the application process, especially if legal advice and representation is required. The importance of information provision, advocacy and support to migrants, including the need for access to legal advice, has been highlighted in this report. There should be a dedicated funding line established to resource the services that are provided by NGOs and independent law centres.

#### ***4.1 Conclusion***

Many of the migrants who participated in this study expressed a high degree of belonging to Irish society and identified Ireland as their home. In times of deep economic uncertainty, not everyone, Irish citizens and migrants alike, is necessarily certain about their future plans. What is certain, however, is the extent to which immigration status, and the rules governing residence permission and citizenship, has a significant impact on the quality of life for migrants and their families, as well as their capacity to participate fully in Irish life and to make plans for their futures.

The Government has committed to provide for the efficient processing and determination of citizenship applications within a reasonable time. This report demonstrates why the Government must go further and address the fundamental problems with the current process for granting citizenship and the lack of provision for a permanent residence status in Ireland.

Leadership and political will is needed to make the required changes but they can be achieved and could lead to very positive changes for migrants and Irish society in the long term.

## **APPENDIX A:**

*Participant Profiles/Tables of Information*

## **APPENDIX B:**

*Additional References and Useful Resources*







## APPENDIX A:

### PARTICIPANT PROFILES/TABLES OF INFORMATION

Table 1: Country of Origin of Questionnaire Respondents					
Not Stated/ Stateless	European Union	Eastern Europe	Africa	Australasia/ Middle East	North/South America & Canada
Not Stated (3)	France (1)	Albania (2)	Algeria (4)	Afghanistan (5)	America (5)
Stateless (2)	Latvia (2)	Armenia (1)	Angola (5)	Australia (1)	Brazil (1)
	Lithuania (2)	Bosnia (1)	Cameroon (10)	Bangladesh (8)	Canada (1)
	Poland (2)	Kosovo (3)	Chad (3)	China (3)	Jamaica (2)
	Romania (2)	Georgia (9)	Congo (DRC) (12)	India (5)	Mexico (1)
		Moldova (2)	Equatorial Guinea (1)	Iran (4)	
		Russia (2)	Eritrea (7)	Iraq (16)	
		Ukraine (2)	Ethiopia (1)	Kazakhstan (1)	
			Gabon (1)	Kuwait (1)	
			Ghana (7)	Laos (1)	
			Guinea (3)	Malaysia (4)	
			Ivory Coast (4)	Myanmar (2)	
			Kenya (1)	Nepal (4)	
			Libya (5)	Pakistan (5)	
			Nigeria (88)	Palestine (2)	
			Rwanda (1)	Philippines (6)	
			Sierra Leone (4)	Sri Lanka (1)	
			Somalia (4)	Tonga (1)	
			South Africa (1)		
			Sudan (8)		
			Tanzania (1)		
			Togo (1)		
			Zimbabwe (5)		
<b>5</b>	<b>9</b>	<b>22</b>	<b>177</b>	<b>70</b>	<b>10</b>

**Table 2: Immigration Status on Arrival (Questionnaire Respondents)**

Type of Immigration Status	No of Respondents
Not Stated	2
Asylum Seeker	189
Employment Conditions	37
EU Citizen	3
Programme Refugee	2
Family Member of Irish Citizen	20
Dependent Family Member of Employment Permit Holder	15
Visitor/Tourist	4
EU Family Member	6
International Student	7
Refugee Family Reunification	8
	<b>293</b>

**Table 3: Current Immigration Status (Questionnaire Respondents)**

Type of Immigration Status	No of Respondents
Refugee/Stateless	67
Family Member of Irish Citizen (spouse/partner)	46
Humanitarian/Exceptional Leave to Remain	40
Parent of Irish Child/IBC	36
Employment Permit (All Categories)	28
Naturalised Irish Citizen	26
Dependent Family Member of Employment Permit Holder	12
Family Member of EU Citizen	10
Temporary Stamp 4 after Five Employment Permits	8
EU Citizen Exercising Free Movement	7
Family Member of Refugee	7
Asylum Seeker	3
Not Stated	3
	<b>293</b>

**Table 4: Current Length of Residence in Ireland (Questionnaire Respondents)**

<b>Number of Years' Residence</b>	<b>No of Respondents</b>
Not stated	1
Less Than Three Years	20
Three to Five Years	43
More Than Five Years	95
More Than Eight Years	90
More Than 10 Years	44
	<b>293</b>

**Table 5: 'Permanent' Applications Made (Questionnaire Respondents)**

<b>Type of Application</b>	<b>No of Respondents</b>
Long-Term Residence Only	9
Citizenship Only	134
Both Long-Term Residence and Citizenship	32
Neither/Not Yet Applied	106
Not Stated	12
	<b>293</b>

**Table 6: Status of Citizenship Applications Made**

<b>Total Citizenship Applications Applied</b>	<b>No of Respondents</b>
Still Pending	125
Granted	26
Refused	15
	<b>166</b>

Table 7: Processing Time of Citizenship Applications Granted	
Immigration Status of Applicant When Applying	Processing Time
Not Stated	Not Stated
Refugee	Not Stated
Refugee	Not Stated
Refugee	Not Stated
Refugee	Not Stated
Refugee	Not Stated
Refugee	Not Stated
Refugee	Not Stated
Refugee	5 months
Refugee	16 months
Refugee	16 months
Refugee	18 months
Spouse of Irish Citizen	18 months
Spouse of Irish Citizen	18 months
Refugee	19 months
Employment Conditions	20 months
Refugee	20 months
Refugee	22 months
Refugee Family Dependant	24 months
Long-Term Resident	24 months
Refugee	24 months
Refugee	30 months
Refugee	36 months
Employment Family Dependant	36 months
Long-Term Resident	36 months
Parent of Irish Child	48 months
<b>Total Number of Applications Granted</b>	<b>26</b>

**Table 8: Applications Refused**

<b>Status on Applying</b>	<b>Processing Time</b>	<b>Reason for Refusal</b>
Leave To Remain	Not Stated	No Reasons Provided
Parent of Irish Child	Not Stated	Receiving Family Income Supplement
Refugee	Not Stated	No Reasons Provided
Parent of Irish Child	Not Stated	No Reasons Provided
Employment Conditions	Not Stated	Receiving Unemployment Benefit after Redundancy
Parent of Irish Child	Not Stated	Social Welfare Dependence
Parent of Irish Child	23 months	Receiving One-Parent Family Supplement
Refugee	24 months	No Information Provided by Respondent
Refugee	36 months	Parking Offence Six Years Previously
Refugee	36 months	Change in Policy – Ministerial Policy that Refugee Requires Three Years' Residence After Granting of Refugee Status
Refugee	36 months	Change in Policy – Ministerial Policy that Refugee Requires Three Years' Residence After Granting of Refugee Status
Humanitarian Leave to Remain	36 months	No Reasons Provided
Refugee	36 months	No Reasons Provided
Refugee	48 months	Summons Traffic Offence/No Conviction
Family Member of Irish Citizen	49 months	€150 Speeding Fine
<b>Total Number of Applications Refused: 15</b>		



## ADDITIONAL REFERENCES AND USEFUL RESOURCES

This appendix provides details of the relevant legislation, useful reference materials and links to relevant application forms and information on the naturalisation process.

### ***Relevant Domestic Legislation***

#### ***Citizenship and Naturalisation***

Article 9, Constitution of Ireland

[http://www.taoiseach.gov.ie/attached\\_files/Pdf%20files/Constitution%20of%20Ireland.pdf](http://www.taoiseach.gov.ie/attached_files/Pdf%20files/Constitution%20of%20Ireland.pdf)

Irish Nationality and Citizenship Act, 1935 (repealed)

Irish Nationality and Citizenship Act, 1956 – the principal Act

Irish Nationality and Citizenship Act, 1986

Irish Nationality and Citizenship Act, 1994

Irish Nationality and Citizenship Act, 2001

Irish Nationality and Citizenship Act, 2004

All of the above legislation is available on: [www.irishstatutebook.ie](http://www.irishstatutebook.ie)

A useful, although unofficial, consolidated version of the Irish Nationality and Citizenship Act, 1956 (as amended) is available on:

<http://www.inis.gov.ie/en/INIS/ConsolidationINCA.pdf/Files/ConsolidationINCA.pdf>

#### ***Permanent Residence***

Directive 2004/38/EC on the right of citizens of the EU and their family members to move and reside freely within the territory of the Member States

[http://eur-](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:158:0077:0123:EN:PDF)

[lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:158:0077:0123:EN:PDF](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:158:0077:0123:EN:PDF)

European Communities (Free Movement of Persons) (No.2) Regulations 2006 S.I. 656/2006

<http://www.inis.gov.ie/en/INIS/SI656of2006.pdf/Files/SI656of2006.pdf>

European Communities (Free Movement of Persons) (Amendment) Regulations 2008 S.I. 310/2008

<http://www.irishstatutebook.ie/2008/en/si/0310.html>

#### ***Long-Term Residence***

There are currently no legislative provisions governing the application for or granting of long-term residence in Ireland.



## ***Official Information and Application Forms***

The most comprehensive official source of information on long-term residence, Irish citizenship and naturalisation procedures is available from the Irish Naturalisation and Immigration Service, Department of Justice and Equality. See:

[http://www.inis.gov.ie/en/INIS/Pages/Long\\_Term\\_Residency](http://www.inis.gov.ie/en/INIS/Pages/Long_Term_Residency)

<http://www.inis.gov.ie/en/INIS/Pages/Contact%20Details%20for%20Citizenship%20Section>

Relevant naturalisation application forms are available:

<http://www.inis.gov.ie/en/INIS/Pages/WPo7000108>

Further information on Irish citizenship and applying for an Irish passport is available from the Department of Foreign Affairs. See:

<http://www.dfa.ie/home/index.aspx?id=254>

Information on applying for an Irish passport is also available from the Irish Passport Office:

<http://www.dfa.ie/home/index.aspx?id=253>

## ***Further Useful Reference Materials***

Cubie D. & Ryan F., *Immigration, Refugee and Citizenship Law in Ireland: Cases and Materials* (2004, Thomson Round Hall)

Hogan, G., & Whyte, G., (eds) JM Kelly: *The Irish Constitution* (4th Ed. 2003, Tottel)

Rogers, N. & Scannell, R., *Free Movement of Persons in the Enlarged European Union* (2004, Sweet & Maxwell)



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*This research report, Living in Limbo: Migrants' Experiences of Applying for Naturalisation in Ireland documents and explores the issues of access to Irish citizenship and secure residence permission. The Immigrant Council of Ireland (ICI) responds to about 10,000 enquiries from individuals, organisations and legal practitioners each year. About 40 per cent of the enquiries we received in 2009 and 2010 related to security of immigration status and "permanency" by way of access to long-term residence and/or citizenship. These are now the priority issues for migrants living in Ireland.*

*Previous research published by the ICI highlighted the fundamental extent to which immigration status affects people's ability to make longer-term plans, participate in society and, ultimately, successful integration or marginalisation. While the granting of permanent residence or citizenship might not result in integration, it is recognised that security of status and access to citizenship are essential pre-conditions to achieving integration.*

The Immigrant Council of Ireland is an independent human rights organisation that advocates for the rights of migrants and their families and acts as a catalyst for public debate and policy change. The organisation was set up by Sr Stanislaus Kennedy in 2001 and is a licensed Independent Law Centre.

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